# The
# **Community**Charter

## A NEW LEGISLATIVE FRAMEWORK FOR LOCAL GOVERNMENT

May 2002

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## MESSAGE FROM THE MINISTER

It's an honour for me, as Minister of State responsible for Community Charter, to present a draft of a new legislative framework for local governments to the people of British Columbia.

I want to acknowledge the tireless efforts of the local government and provincial representatives who make up the Community Charter Council. The Council started work in August 2001 and this draft is based almost entirely on the recommendations received from the Council. This latest draft is the result of their hard work in building a consensus document from the feedback of hundreds of municipal representatives consulted in a province-wide process.

The Community Charter seeks to change the way the municipal system works. It will set in place a new approach to the relationship between the province and local governments: one of respect and increased empowerment. It will replace a provincial tradition of rigid rules and paternalism with flexibility and co-operation. The Community Charter will encourage municipalities to be more self-reliant, freeing them from needless regulation and second-guessing of local decision making by the Province. It presents simple, concise legislation that balances broad municipal abilities with public accountability and protection of province-wide interests in key areas like the economy, environment and public health.

Before drafting the legislation, the Community Charter Council joined me in consulting with local government leaders, but we are not finished yet. Feedback from a broad cross-section of interested people will help us to finalize the legislation before it is introduced into the legislature for final consideration.

Please submit your comments and suggestions so that government can consider your advice as we move forward as quickly as possible to finalize the first phase of the Community Charter.

The next phase of the reform process will expand to regional districts, regional growth strategies, planning and land use, and other issues of local concern.

I look forward to your important and highly valued comments and advice on this draft. We are building this new legislation together – and by working together, we will give municipalities the tools they need to serve their communities even better.

Sincerely,

Ted Nebbeling
Minister of State for Community Charter

# INTRODUCTION

## Community Charter Council

The vision expressed through the Community Charter is one more step in a journey that began when the Union of British Columbia Municipalities (UBCM) first conceived its *Local Government Bill of Rights* in 1991. To make this vision a reality, within 90 days of taking office, government appointed a Minister responsible for the Community Charter, passed the *Community Charter Council Act* and established the Community Charter Council. Council members have worked diligently to discuss and weigh a wide range of values and interests. The Council held five regional meetings to discuss various options and ideas with municipal leaders and officials throughout the province. They have attempted to negotiate a consensus around municipal legislation that meets both local and provincial needs. The resulting draft Community Charter has not been imposed by the Province but is, instead, built from the ground up. The co-operation between the provincial and local government representatives appointed to the Charter Council reflects a joint provincial-local government process that serves as a model for the new relationship of mutual recognition and respect, central to the principles of the Community Charter.

The Council has 11 members in addition to the Honourable Ted Nebbeling, Minister of State for Community Charter. There are four members selected by the UBCM: Hans Cunningham, Patricia Wallace, Frank Leonard and Jim Abram; four members-at-large selected by the provincial cabinet on the recommendation of UBCM: Gerry Furney, Marilyn Baker, Joyce Harder and Helen Sparkes; and three members selected by the provincial cabinet to represent provincial interests: Don Avison, Ben Marr and Keith Saddlemyer. The Minister's role has been to facilitate discussions and receive the Council's recommendations. The interim report and recommendations of the Community Charter Council are attached in Appendix one.

## Purpose

This publication provides the draft text of the legislation (Appendix two) for review and comment by local government representatives, provincial officials, the business community and the public. It also provides information on the intent of the Community Charter and serves as a platform for consultation and review before the legislation is finalized.

## Invitation for Feedback

This publication presents the full draft of the Community Charter to date. On the basis of this information, please submit your written comments and suggestions to:

Local Government Policy and Research Branch
Ministry of Community, Aboriginal and Women's Services
P.O. Box 9490 Station Prov. Govt.
Victoria, B.C. V8W 9N7
Fax: (250) 387-6212
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Once your comments have been received, they will be reviewed and considered before introducing the Community Charter to the Legislature as a Bill.

## THE COMMUNITY CHARTER VISION

The communities of British Columbia are rich in history, purpose and diversity. Some have matured from forts or early fur-trading centres into modern, vibrant cities while others remain vital, small, rural and resource-based. Together, these communities reflect British Columbia's unique social and economic development. These are the places where we live, work, shop and visit. We call these places home. With our magnificent environment, abundant natural resources and the talents of our people, the communities we build are a central part of the legacy we leave for future generations.

British Columbia is composed of hundreds of communities. We incorporate our communities into municipalities because of a basic need for residents to come together in an organized way to provide the services they desire and to establish community standards that reflect their values and aspirations. This democratic tradition has been woven into the fabric of British Columbia's history. For more than a century, however, provincial legislation has often prevented municipalities from realizing their full potential. Municipalities across British Columbia have long deserved respect and the authority and flexibility they need to serve their communities better. At the beginning of a new century, the time has come to put in place a new vision for the future.

The Community Charter is the bridge municipalities need to move forward toward a future that is more prosperous, certain and globally competitive. The Community Charter sets out a vision for new municipal legislation – a vision that will, in time, expand into a new vision for the entire local government system.[1, 2] At the core of this vision is a new legislative

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[1] Phase One of the *Community Charter* focuses on reforming municipal legislation. These changes will serve as the essential building blocks for later legislative reform for regional districts, planning and land use regulation growth strategies and other issues of local concern. These reforms will be addressed in later phases. While municipalities alone will be examined as part of this phase of the *Community Charter*, some parts of the Charter could apply beyond municipalities. For example, it might be prudent to apply open meeting and conflict of interest rules to all local governments.

[2] The *Community Charter* does not apply automatically to the City of Vancouver, which has older legislation of its own. Only if it so chooses will Vancouver come under the *Community Charter* umbrella.

framework that frees municipalities to better serve the interests of their citizens by ensuring that they have the authority to make local decisions locally. This legislative framework creates a new approach to governmental relations, replacing a tradition, based on provincial rules, with one based on dialogue and jointly steering provincial-local government relations.

The new legislative framework expands on the many strengths of the local government system. It builds on the strong relationships between local governments and their citizens, and the public expectation of fiscal responsibility and accountability. The legislation provides communities with broad powers to do their jobs within a framework of consistent, province-wide standards. To realize this vision, the Community Charter provides municipal governments with *broad powers*. They should have the powers necessary to provide local services, regulate activities in their communities and manage their organizations.

These new powers underscore the confidence that British Columbians have in their municipal governments. Municipalities have dedicated, hard working elected officials. The Community Charter recognizes this experience and talent, and acknowledges that municipal leaders are able to find creative approaches to their own local problems. The Charter moves municipalities beyond the traditional 'one-size-fits-all' approach, acknowledging that what might work in the Lower Mainland might not work in the Peace River region. Through the Charter, municipalities will be able to find the solutions they need to address their unique challenges.

The Community Charter also recognizes that it is not enough to promise broad powers: municipalities need revenue sources to recover the costs of providing services or undertaking other municipal functions. The draft Charter presents only those revenue sources currently available to municipalities, in particular fees and property taxes. In addition, various revenues that are available to municipalities in other jurisdictions are presented below in the Part 7 segment. The provincial government is seeking comment as to their suitability for BC municipalities.

With more local autonomy comes a focus on accountability. The principles of the Community Charter balance municipal rights with a strong sense of municipal responsibility. The Charter recognizes that municipalities need wide-ranging capacity and more flexibility to meet the needs of their diverse communities effectively. At the same time, the Charter recognizes that, by using broad legislated authority, municipalities will have an impact on many individuals, groups, businesses and other organizations. The Charter seeks to balance municipal governments' need to act, with the rights of those who will be affected. Citizens should expect open, accountable and transparent local governments. They should know what their municipality's goals are, what it is doing, and what it has accomplished. They need opportunities to become directly involved in some decisions and to have access to information about significant decisions before they are made.

The Community Charter also commits the provincial government to supporting and empowering municipalities to create their own future. Therefore, the Charter recognizes municipalities as an order of government acting within their jurisdictions in British Columbia, acknowledging the central place of municipalities in the governmental system and inaugurating a new relationship between municipal and provincial governments.

The principles guiding this new relationship between governments recognize the need for mutual respect of each government's authority. Each order of government will be expected to consult the other over matters of mutual interest. The provincial government is committed that, before new responsibilities are assigned to a municipality, there must be provision for resources to fulfil that responsibility. The provincial government will respect the varying needs and conditions of different municipalities. Municipalities can be sure that their municipal government will not be dissolved unilaterally – such as through a forced amalgamation. This new municipal-provincial relationship includes the principle of provincial respect for local decisions made within local jurisdiction. The new relationship also calls on municipalities to accept that they, too, have to recognize that provincial interests sometimes transcend local interests and that it often makes sense to have province-wide standards.

The Charter envisions local and provincial governments working together in a dynamic, evolving partnership to serve the best interests of all their citizens. Joint management and the development of a municipal government system that has open, regular government-to-government dialogue would help secure a future where the interests of all British Columbians are served and protected. There would be many practical outcomes of this new relationship of mutual respect. For example, municipal and provincial governments would be able to harmonize actions, decisions and standards. They would also be better able to meet their citizens' expectations that they resolve their differences and disputes in an efficient and cost-effective manner.

This vision for British Columbia's municipalities and the new relationship between municipalities and the provincial government is achievable. It will rebuild the confidence municipalities have in their future by creating the context for decision-making that would improve quality of life, preserve our natural environment and build prosperous and sustainable communities.

Much progress has been made toward creating simple, concise legislation that balances broad municipal capacity and responsibility with public accountability. The draft legislation outlines the foundation of the new approach to municipal governance – but the foundation is not yet complete. Further consultation is essential to resolve complex issues that remain outstanding. The government will collect the thoughts and ideas of a broad range of British Columbians over the next few months to ensure that the Community Charter becomes an enduring framework that provides the opportunity for local governments in British Columbia to reach their full potential.

## A VISION FOR THE MUNICIPAL SYSTEM

The Community Charter vision contemplates the provision of powers to municipalities to allow for efficient municipal operations, but at the same timerecognizes that municipalities do not operate in isolation. Municipal decisions have a profound effect on the community, its residents and businesses. These decisions may also have substantial effects outside the community including regional, provincial, and in some cases even national and international effects.

Making a commitment to work together, citizens, municipalities, businesses and the provincial government will be able to use the Community Charter to secure the benefits that will make British Columbia a better and more prosperous place to live. The Charter will improve the municipal system by replacing the rule-based tradition of prescriptive legislation with an approach that focuses on system objectives and outcomes. The Charter's commitment to joint provincial-local management of the municipal system, provides the potential for municipalities to become more responsive to unique local needs over time. In turn, the emphasis on objectives and outcomes will provide a tool to assess municipal decisions that have external effects.

### Safeguarding the Public Interest – Municipal Public Accountability

The Community Charter balances new municipal capacity with measures to encourage appropriate public accountability – measures on topics such as annual reporting and ethical conduct on the part of council members. With clear, democratic rules guiding municipal government, citizens will have a better understanding of their government's intentions and priorities.

The Charter is based on the philosophy that providing citizens with better information makes for better government. Like provincial ministries, municipalities will provide annual reports to their citizens outlining their objectives, measures and accomplishments. It will be important to ensure that this new reporting provides information that is beneficial to citizens, taxpayers, businesses and other parties affected by municipal decisions. A review of opportunities to make this reporting meaningful is outlined below in the continuing work discussion in the Part 4 segment.

In addition, because citizens have an interest in the financial health of governments, the Community Charter supports financially responsible local governments. Charter provisions preserve the integrity of the existing Municipal Finance Authority-based system for long-term finance and will not adversely affect the strong credit rating of BC municipalities. These provisions lie primarily in the areas of budgetary and commitment controls, such as prohibiting budgeting for a deficit and limiting most long-term borrowing to capital purposes. Also included are measures to reduce financial risks: borrowing limits; provincial approval of borrowing; and putting rules around investments, or incorporating or acquiring shares in a company. An ongoing review of opportunities for streamlining financial liability limits and procedures is outlined below in the continuing work discussion in the Part 6 segment.

## Safeguarding the Provincial Interest – Provincial Public Accountability

In the same way that an individual municipality is accountable to its citizens, the provincial government is accountable to citizens of the province as a whole. Given this, the province has a number of interests in the local government system, including:

- ✓ business and the economy
- ✓ public health, safety and social equity
- ✓ conservation of the natural environment
- ✓ transportation and highways
- ✓ agriculture, aquaculture, and natural resources
- ✓ financial health of the overall municipal system

While the vast majority of local decisions will further both local interests and provincial interests, there will be some instances when a provincial interest might be put at risk. This often occurs when a local government makes a decision that is appropriate from a local perspective, but in so doing creates difficulties in the wider, provincial context.

Provincial legislation protects provincial interests in a variety of ways. First, the Charter provides municipalities with the regulatory authority deemed by the Charter Council to be vital to local community interests. However, there are a number of regulatory areas where, for reasons of consistency and workability, only one regulator is appropriate. Therefore, the provincial government will retain jurisdiction in areas such as labour and employment, family relations, consumer protection, human rights, forests, mining, oil and gas, education and civil law.

Second, the Charter will enable the province to work with local governments in areas where both levels of government need to regulate. In these areas of concurrent regulatory authority, the Charter ensures that provincial interests are protected while still leaving scope for appropriate local discretion. The regulatory areas affected are public health, protection of the natural environment, building standards, and prohibition of soil (including gravel) removal and deposit.

Third, the Charter safeguards some important public interests through limitations on powers. Examples include limits on business prohibition powers and restrictions in relation to tree protection and gravel extraction.

Fourth, the specific rules contained in all other Provincial statutes will continue to apply. Acts such as the *Police Act*, the *Farm Practices Protection (Right to Farm) Act* and the *Motor Vehicle Act* may provide exclusive jurisdiction to the province, a specific or general exception to a Charter provision, or specific limitations or conditions relating to powers provided under the Charter. All of these types of provisions will serve to ensure protection of specific province-wide interests.

However, legislated provisions are not enough. The provincial government will aim to define its interests and goals clearly in order that municipalities can reflect and accommodate provincial interests when making local decisions. This will help to ensure the municipal system itself can achieve benefits in relation to both municipal and provincial interests.

## Making it Work – Bringing Interests Together

The Charter aims to provide municipal governments with the tools, resources and flexibility needed to become more responsive to unique local needs, more creative in finding solutions and faster to take action. These tools will, however, be most effective if they are used in ways that foster efficient, effective governments at the municipal, regional and provincial levels. The Charter, therefore, incorporates tools to help neighbouring municipalities, regions and the province work together in order to benefit all.

The Community Charter is based on encouraging productive dialogue between the provincial and municipal levels of government over policy change. Under this approach, municipalities will be able to influence provincial policies for the benefit of local communities, while the provincial government will be able to influence municipal policies for the benefit of the province as a whole. Additionally, the Charter provides neighbouring municipalities with the means and the incentive to work together to deliver services and regulation where joint action is apt to result in better or less costly services.

An example of how these tools can be used to meet interests of all governments is creating a competitive business climate. First, the Community Charter can become a catalyst for economic development because it supports entrepreneurial freedom within a consistent economic framework.

Second, each community will have a broad and flexible array of revenue options – ranging from user fees to various tax sources – that will serve its needs best. More versatile revenue tools have the potential of motivating local governments to work towards reducing property value taxes and narrowing the imbalances in property value tax rates sometimes applied to business and industry.

Third, as the municipal system matures, smarter, harmonized regulations will reduce or eliminate rules and red tape that do not serve the essential public purpose of municipal governments. As regulations are harmonized locally and regionally, increases in certainty and reduction of costs for businesses and others can be achieved.

Fourth, clear title to municipal parks and most municipal roads will give municipalities the ability to use these lands as their communities wish.

Innovative public-private partnerships, targeted property tax exemptions, smarter regulation, and fair and reasonable taxes will combine to encourage entrepreneurial, competitive communities that help restore certainty and prosperity to British Columbia.

## THE PROPOSED CONTENTS OF THE COMMUNITY CHARTER

### Part 1 – Principles and Interpretation

In this section, the Community Charter sets out the principles of municipal governance and municipal-provincial relations, based upon recognition of municipalities as an order of government acting within their jurisdictions within British Columbia. It respects the public interest by citing the ability to establish democratically elected, autonomous, responsible and accountable municipal governments that can provide for community needs. It lays the foundation for a new relationship of mutual respect and co-operation between the provincial and municipal governments, based on a commitment to consultation and to amicably settling governmental conflicts. Together with Part 2, this Part largely defines the fundamental nature of municipal government in British Columbia.

Part 1 also contains broad interpretation provisions that are meant to signal to readers, including the courts, that the Charter's enabling provisions are to be interpreted in a broad manner rather than the narrow and confining manner that has traditionally prevailed.

### Highlights

- ✓ recognizes municipalities and their councils as an autonomous, accountable and democratically elected order of government within their jurisdiction;
- ✓ recognizes the municipal need for adequate powers and discretion to meet existing and future community needs;
- ✓ recognizes a new provincial-municipal relationship of mutual respect; and
- ✓ commits that, before new responsibilities are assigned to a municipality, there must be provision for the resources required to fulfil the responsibilities.

### Part 2 – Municipal Purposes and General Powers

This Part sets out the fundamental powers municipalities need to fulfil their purposes, while defining those purposes. It links directly to Part 3, which sets out further specific powers, and requirements and limitations in relation to these fundamental powers. Through this Part, municipalities have the following fundamental powers, subject to any specific conditions and restrictions established:

- ✓ 'natural person' powers;
- ✓ the power to provide any municipal service, (covering activities, works or facilities), and the authority to regulate, prohibit and require persons to take action in relation to those services;

- ✓ the power to regulate and impose requirements in relation to the business and business activity sphere;
- ✓ the power to regulate, including the authority to prohibit and to make requirements, in defined spheres of autonomous regulatory authority other than business; and
- ✓ the power to regulate, prohibit and to make requirements in co-operation with the province in defined areas of concurrent authority.

This Part sets out where and how municipalities can exercise their fundamental powers, and establishes related authorities such as licensing, inspection and discontinuing a service.

This Part sets out 15 areas or spheres of municipal regulatory authority. Municipalities have autonomous authority within 11 of these spheres. In these, municipalities may regulate, so long as the municipal bylaw does not prevent a person from complying with a provincial law at the same time.

Beyond these 11 autonomous areas, the legislation sets out four areas of concurrent regulatory authority where both the province and the municipal government have an interest in regulating. It allows the province and municipalities to negotiate agreements that can expand the authority for one or more municipalities to regulate within these spheres. This means municipalities will be able to respond to and regulate, with respect to new issues as they arise.

The autonomous and concurrent powers include the broad ability to prohibit in most, but not all, cases. The major exceptions are business regulation, for which no broad prohibition authority is provided, and the regulation of soil and gravel removal or deposit, for which prohibition is a concurrent authority. In addition, both the autonomous and concurrent areas include the ability to require persons to use the service or take actions at the direction of the municipality.

While Part 2 is largely about empowering municipalities, it also respects the public interest by setting reasonable limits on those powers and outlining basic procedures that must be used. It also addresses the provincial interest with respect to business prohibition: the specific, limited business prohibition authority in current legislation is continued in the Charter, but not expanded.

## Highlights

- ✓ shifts from broad 'corporate powers' to 'natural person powers';
- ✓ confers broad authority to provide any municipal service and to regulate, prohibit, or impose requirements in relation to services;
- ✓ confers broad authority to regulate in relation to eleven autonomous and four concurrent areas of regulatory authority;

- ✓ provides broad authority to prohibit and make requirements in all autonomous and concurrent areas (but the prohibition of business is not generally authorized);
- ✓ potential for harmonization of regulations locally, regionally and provincially in the areas of concurrent regulatory authority;
- ✓ authority for municipalities to establish inter-municipal regulatory schemes in relation to all areas of regulatory authority;
- ✓ municipalities may provide a service within another municipality on agreed terms and conditions; and
- ✓ provides general power for municipalities to establish a standard, code or rule by adopting a standard, code or rule published by a known body.

## Part 3 – Additional Powers and Limits on General Powers

This Part of the Community Charter has two main functions. First, having already set out general service and regulatory powers in Part 2, this part sets out additional specific powers, for example, seizing unlicensed animals. It also sets out special authorities not covered by the fundamental municipal powers. Through this Part, a municipality will own most municipal streets that are located within its boundaries.

Second, this Part sets out the areas where the public interest calls for reasonable limitations or restrictions on the actions of municipalities. This affects 'natural person powers' and other municipal powers concerning property, as well as service and regulatory powers. Examples are found in relation to tree protection or in the ability to provide assistance to business.

### Highlights

- ✓ transfers title to most roads and parks in municipal boundaries to municipalities;
- ✓ provides limited power to municipalities to prohibit certain defined business activities (equal to current powers);
- ✓ prohibits assistance to business, with some exceptions;
- ✓ requires elector approval for removal of a reservation or dedication of municipal property as a park or for heritage conservation purposes; and
- ✓ provides expropriation powers.

## Part 4 – Public Participation and Council Accountability

This Part highlights the importance of public participation and council accountability. It states the general rule that council meetings are to be open to the public, with some exceptions, and also applies this rule to other bodies such as council committees. It provides the opportunity for the public to have a direct say in some matters, seeks transparency in relation to council actions, provides opportunities for public access to records and requires specific reporting mechanisms, in particular an annual report which reports on objectives and accomplishments. It also contains conflict of interest provisions that recognize the practical realities of locally elected officials in their communities.

### Highlights

- ✓ requirement for municipal annual reports including objectives, measures and accomplishments;
- ✓ mandatory annual public meetings;
- ✓ rules for open meetings, including application to other municipal bodies and provisions respecting certain informal, "shirt sleeve" meetings;
- ✓ ethics requirements for municipal councillors, including such matters as disclosure of interest, restrictions on inside and outside influence, accepting gifts and contracts; and
- ✓ specific exceptions from conflict restrictions.

### Continuing Work:
### Annual Reporting on Objectives and Accomplishments

New requirements for annual reporting to citizens are an essential component of the overall accountability of the municipal system. However, in order for this accountability tool to be effective, the reports must be relevant to a diverse range of groups affected by municipal actions. Of primary significance in this regard is reporting in relation to municipal objectives, measures and accomplishments.

The Charter is founded on a principle that municipalities are accountable to the public, not the province. Therefore, the draft Charter does not call for reporting to the province but rather to citizens. The draft legislation proposes a very flexible requirement in relation to such reporting. Specifically, the legislation does not prescribe details of how a municipality must report its accomplishments to its citizens. However, it is recognized that accountability may be enhanced through some standardization that allows citizens, business and other interests to compare their municipality with other jurisdictions. As a consequence, it is intended that further work be undertaken to maximize the usefulness of annual reports and the comparability of information between municipalities.

Consistent with the spirit of the Charter, the province looks to the local government community to find ways that such reporting can best be achieved. The province will facilitate a working group consisting of representatives from UBCM, Local Government Management Association, Government Finance Officers' Association, and business and other interests in order to work towards best practices in relation to annual reporting of objectives, measures and accomplishments.

## Continuing Work:
### *Conflict of Interest and Other Ethical Conduct Issues*

Citizens have an interest in ensuring their representatives on municipal council act ethically, and that sanctions are imposed if ethical rules are breached. The members of the Community Charter Council shared this interest and called for clear, understandable rules for such conduct. Given this, the Community Charter sets out new provisions for council members on accepting gifts or contracts, and using their positions to influence inside and outside decisions.

The Council identified a number of areas where the system could be improved, such as better ways to determine when a conflict of interest exists and more appropriate, enforceable penalties when a member of council acts while in conflict. However, given the technical complexity of conflict of interest law, the Council recognized the need for a wide range of input. Consequently, the Council recommended the establishment of a working group consisting of technical experts, along with representatives of the UBCM and the provincial government. In the coming months, this group will consider options and make recommendations for improvements to the system.

## Part 5 – Municipal Government and Procedures

This Part sets out the rules and procedures for conducting municipal council business. It links the municipal purposes and powers defined in Part 2 to the mayor and council and lays out the roles and responsibilities of each.

This Part also covers various matters of municipal governance and administration, including council meetings and proceedings, voting rules, appointing officers and employees, delegating council authority, and establishing committees and commissions. It allows councils to establish other procedures through a procedure bylaw. Municipalities will have the capacity to write municipal codes or consolidate bylaws. There is also a regulatory power enabling bylaw revision, which would essentially amount to a simplified version of the equivalent provincial legislation on statute revision.

## Highlights

- ✓ mayor's role includes providing leadership and directing management of municipal policies and programs;
- ✓ council members' role includes developing and evaluating municipal policies and programs;
- ✓ council members have duty to vote if present during council meeting;
- ✓ council size can be changed by bylaw, but reduced only with elector assent;
- ✓ confidentiality provisions for council members; and
- ✓ provision for electronic meetings.

## Part 6 – Financial Management

*This Part of the Community Charter identifies the methods and procedures for sound* financial management practices for municipalities. It sets out the financial management framework, including powers to incur liabilities and invest funds. This Part lays out the accountability requirements for municipal finances, such as five-year financial planning, public involvement in that plan, municipal audits and elector approval for borrowing. The provisions of this Part establish common financial requirements for all municipalities but allow each municipality to draft its financial plan to fit local circumstances.

This Part responds to the need for public accountability with respect to audits and certain financial reporting. It provides a simple approach to reserve funds. Detailed provisions on borrowing serve both the public and the municipal interest. The pooled borrowing authority of the Municipal Finance Authority (MFA) and its top credit rating rest on this part of the legislation.

### Highlights

- ✓ sets guidelines for financial management practices, including requirements for five-year financial plans and public consultation;
- ✓ permits council, in specified circumstances, to incur a liability under a long term agreement without elector approval;
- ✓ establishes specific liability limits;
- ✓ permits council to borrow money to meet current lawful expenditures and taxing obligations;
- ✓ preserves the integrity of the MFA-based system for long-term finance; and
- ✓ allows council to use loan authorization bylaws to incur liabilities for a range of capital expenditures with elector approval.

### Continuing Work:
### Financial Liability Limits and Procedures

British Columbia has a healthy municipal financing system with low levels of debt, healthy financial reserves and an outstanding credit rating. Still, the Community Charter Council identified a number of areas where the current financing system could be improved by:

- ✓ strengthening the match between authorized liabilities and the ability of the municipality to repay the debt;
- ✓ streamlining the current borrowing approval process which currently involves four provincial approvals alone for a single borrowing; and
- ✓ reconsidering the current process for when and how to seek public approval of borrowing and other long-term financial commitments.

The review of public involvement will respect the need to involve the public in important financial decisions, protect the financial integrity of the local government system and facilitate public-private partnerships. One possible element of a new approach would be to establish a borrowing or long-term liability threshold below, which local governments would not have to seek elector assent. Another possible element would be to create different population-based thresholds for obtaining voter approval using the alternative voter approval process. Specifically, the threshold could be set at a higher level in smaller communities and at a lower level in larger communities. Just what percentage and population thresholds to use is open to feedback.

The Council called for the creation of a joint work team to analyse public and technical policy issues and advance alternatives that would protect the beneficial credit rating of the MFA. The work team will include representatives from the MFA, the UBCM, the Local Government Management Association, the Government Finance Officers' Association and the Province. It will work over the coming months to explore options and make recommendations on desired changes. It will be asked to identify practical ways to:

- ✓ modernize limits on incurring liabilities and streamline borrowing procedures;
- ✓ provide municipalities with reasonable capacity to borrow or incur other long term financial commitments without elector approval, including consideration of types of liabilities which should not be subject to elector approval;
- ✓ implement alternative approval process thresholds, giving consideration to varying the thresholds by community population; and
- ✓ encourage public-private partnerships.

It will need to achieve these goals in a way that maintains the high regard that local governments and the MFA enjoy in the international financial community.

## Part 7 – Municipal Revenue

Traditional financial tools for raising funds, such as property value taxes and fees, are detailed in this section. More work is being done to determine additional revenue sources (refer to the text below on additional revenue sources). Part 7 sets out both a modernized parcel tax system and a simplified system for local area services, the latter, replacing separate sections for specified areas, local improvements, and business improvement areas. The Charter contains a detailed but compact list of properties exempt from taxation, either by rule or at council discretion. The latter refers mainly to properties owned by non-profit organizations.

## Highlights

- ✓ simplified authority to tax in relation to services of special benefit to a part of the municipality;

- ✓ broader authority to provide tax exemptions in relation to property owned by non-profit organizations;
- ✓ simplified provisions for permissive property tax exemptions; and
- ✓ a possible model for targeted business tax exemptions is advanced for the purpose of discussion.

## Issue for Discussion: Additional Revenue Sources

The Community Charter increases municipal autonomy and seeks to provide better planning tools and adequate resources. Currently, the bulk of municipal revenue comes from property value taxes, although other locally based taxes also exist. Various capital and other transfers are available from the provincial government, but these transfers have been reduced significantly from levels of a decade or two ago. Municipal governments have been relying more on property value taxes to finance municipal services and are reluctant to increase them to finance new services. To reduce pressure on property value taxes, more flexibility and new options for revenue sources may be needed.

The provincial government is undertaking two complementary initiatives outside the Community Charter to increase municipal revenues. First, the provincial government is committed, within its first term, to transferring 75 per cent of traffic fine revenue back to municipalities, which share in policing costs. In 2001, traffic fine revenues were $44 million and municipalities received $10 million of it. If 75 per cent of these total revenues were distributed to municipalities, their traffic revenues would triple to more than $30 million. Second, the provincial government is working to move forward on its commitments regarding financial contributions from Crown corporations. Crown corporations already make payments in lieu of taxation, but the basis for the calculation of these payments may in some cases vary from what would be paid if the Crown corporation paid property taxes. Implementation of the commitment would see a consistent basis for determination of tax-equivalent payments.

Even given these two commitments, there may be a need for additional revenue sources to supplement property taxation and fee authority for municipalities. It is anticipated that these traditional revenues will continue to provide the majority of municipal revenue. However, new revenue sources could be used to reduce the pressure on property taxes and to address imbalances between industrial / business and residential property taxes where they exist.

Municipal tax policy decisions focussing on equity could be facilitated with a more diverse range of revenue tools. If legislated, the decision as to whether or not to use a particular new source of revenue would be a local decision. Municipal governments would have the responsibility to make these decisions and would be accountable to their citizens for those decisions.

A survey of municipal authority in other jurisdictions reveals a number of sources of revenue available to those jurisdictions that are not available to most BC municipalities. The following sets out a number of these revenue sources. Included is a discussion of some considerations in relation to their potential use in a BC context.

**Road Tolls:** In some jurisdictions, municipalities finance road and bridge construction through road tolls. While better suited to new or improved road or bridge construction, it may also be possible, in suitable cases, to impose tolls on existing local roads. Municipalities would be challenged to find the best way to design effective road tolls and may have to deal with changing traffic flow patterns if drivers avoid the tolls. If implemented in BC, a broad provincial policy on road tolls would be required to set a consistent context for local decisions in order to maintain the integrity of the overall transportation system in the province.

**Hotel Room Revenue Tax:** Currently, BC municipalities can apply a two per cent hotel room tax but must use the revenues to promote tourism programs or facilities. These restrictions could be loosened somewhat to permit municipalities to use the funds for projects that improve local infrastructure for the purpose of attracting tourists.

**Fuel Tax:** A number of jurisdictions authorize a levy on motor fuel to provide revenue for local government transportation investments. Based on 2000/2001 revenues, each additional cent of tax per litre of gasoline could generate $26 million across BC, not including the regions that already use fuel taxes. The administration of this levy could be "piggybacked" on the existing fuel tax collected by the provincial government and revenues would be used for the local transportation system.

**Local Entertainment Tax:** Municipalities in some jurisdictions are empowered to levy a local amusement tax on exhibitions, performances or even recreational activities, such as skiing. Municipalities could determine the tax rate and exemptions attheir own discretion and administer the tax at the local level.

**Resort Tax:** Like the proposed entertainment tax, municipalities with resorts could be allowed to design locally-specific resort taxes, such as ski lift ticket taxes or taxes on green fees for non-members of golf courses. Such a tax would permit municipalities to access tax revenue from non-resident users of the tourist facilities and the revenues could be directed to recovering the costs of services or infrastructure.

**Parking Stall Tax:** Some jurisdictions allow municipal taxes for parking or the rental of a parking space. Such a tax could also be used as an incentive to reduce traffic congestion or to encourage the use of public transit, and revenues would therefore be directed to transportation improvements.

**Fees as a Tax:** A few jurisdictions override the common law rule that user fees be limited to the cost of providing a particular service or regulatory scheme. Selective exceptions to the common law rule could be made. The resulting new taxes could be collected in the same way as existing user fees. This approach may be more acceptable for some types of fees than for others. For example, taxes related to sewer, water or sewage treatment may help to encourage water conservation, but taxes related to various permits may discourage compliance with municipal regulation.

While each of the revenue sources outlined above is in use somewhere, in no jurisdiction surveyed did we find municipalities with access to all such revenue sources. This indicates that all jurisdictions take care to assess the suitability of individual revenue tools prior to adopting them. Were BC to adopt any or all of the potential additional sources of revenue, several selection criteria could be applied. For instance, additional revenue sources should be clearly identifiable as a local government tax and implemented in a manner that does not create competitive issues between local governments. They should be reasonably easy to administer, either at the local or provincial level, and, if collected by the provincial government on behalf of local governments, have a simple distribution scheme. Finally, they should not impede provincial tax policy flexibility.

The provincial government would like feedback on revenue options that are based on the above criteria. Questions to consider include:

- What potential revenue sources are the most appropriate? Why?
- On what basis should a community decide which revenue sources are best for their needs?
- What implications should be considered?

### Issue for Discussion:
### Business Tax Exemptions

The October 2001 discussion paper on the Community Charter introduced the possibility that municipalities could provide property tax exemptions for new industrial enterprises. There was mixed response to the idea at regional workshops. Many worried about creating competition between communities and about unfairness to existing businesses. Other municipal representatives expressed interest in the concept, provided it was properly designed.

The Community Charter Council discussed this matter at length and was unable to come to a consensus, but recommended that the draft Charter include a possible scheme and that the government undertake further consultations. Specifically, the government is seeking further direction on these questions:

- Should we have business tax exemptions?
- What is the best way to provide for exemptions?
- What checks and balances could be provided to deal with the perceived negative side effects of such a scheme?

To elicit discussion, a possible scheme has been developed based in part on experience in the *1980's with the Provincial-Municipal* Partnership Program. The major features of the concept, as detailed in the draft Charter, are as follows:

- ✓ municipalities can provide certain businesses with a property tax break;
- ✓ eligible businesses are industrial enterprises that are: new to British Columbia; undertaking significant expansion; or facing unusual economic difficulties;
- ✓ the municipality could enter into an agreement with the property owner dealing with the terms and conditions of the exemption; and
- ✓ the terms and conditions could include commitments as to investment, employment and repaying taxes, should the agreed terms and conditions be violated.

## Continuing Work:
## Updating Tax Sale Provisions

The Ministry of Community, Aboriginal and Women's Services is reviewing the legislation that provides for the municipality to sell a particular property in order to recover unpaid property taxes. That legislation has not previously been reviewed to ensure that it effectively balances the municipal interests in administrative efficiency and protection of revenues, with property owners' interests in fairness and due process. A discussion paper has been released and consultations have been held with key stakeholders. This initiative could ultimately lead to new legislation on tax sales.

## Part 8 – Legal Proceedings and Bylaw Enforcement

This Part deals with technical matters surrounding issues such as challenges to municipal proceedings, proceedings against municipalities, indemnification against proceedings, bylaw enforcement, ticketing for bylaw offences and other means of enforcement. Direct enforcement procedures have been streamlined and simplified. Because the matter of defences, limitation periods, limitations on liabilities and immunities are to be dealt with in the future, these matters are addressed simply by cross-references to existing legislation.

Respecting ticketing, councils may define bylaws that could be enforced by ticketing. The Community Charter sets out the rules that apply to serving tickets and the procedures that apply following service.[3] Municipalities may also bring a proceeding in Supreme Court to enforce or prevent the breach of a bylaw.

### Highlights

- ✓ broadens authority in bylaws to set fines;

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[3] Municipal ticketing and other bylaw enforcement provisions are also being reviewed as part of the Ministry of Attorney General's work in relation to a forum for bylaw infractions as noted below. The proposals for municipal ticketing set out in the draft Charter are therefore subject to change as a result of that process.

- ✓ establishes flexible municipal ticketing provisions; and
- ✓ streamlines procedural requirements in relation to removal of nuisance structures.

## Continuing Work:
## Forum for Bylaw Infractions

Originally, the plan for the Community Charter included a mechanism for handling bylaw infractions. As the drafting process unfolded, it became clear to the Community Charter Council that this matter would be moved forward most effectively through the Ministry of Attorney General. As a result, a review of the most efficient way to handle bylaw infraction disputes is under way, and so the results are not yet contained within the draft legislation.

The Ministry of Attorney General is considering creating a new community-based forum to hear disputes arising from less serious bylaw infractions, such as parking or noxious weed violations. This forum would be completely separate from the court system and would be capable only of imposing a monetary levy. Serious bylaw infractions, where a substantial fine or jail term is sought, would continue to be heard by a judge of the Provincial Court. A discussion paper on this issue will be released later this year to solicit opinions from the public.

## Continuing Work:
## Building Regulation Liability

Local governments' concerns about the extent of their liability in regard to building regulation and inspection are under review in several respects. The Ministry of Attorney General has initiated a dialogue on civil liability generally, including the issues of joint and several liability and limitation periods. The Ministry of Advanced Education is reviewing the issue of professional liability insurance for design professionals. As well, the Ministry of Community, Aboriginal and Women's Services will be looking at the Municipal Insurance Association's suggestions for increased reliance on professionals for inspections and some product certification. Issues of liability are complex, and finding fair and appropriate solutions will be challenging and will take time.

## Part 9 – Governmental Relations

This section builds on the provincial-municipal relationship principles set out under "Part 1: Principles and Interpretation." It establishes two approaches to that relationship. First, it lays out the provincial government's responsibilities with respect to municipalities, such as consultation arrangements, plus innovative regulatory powers, including the ability to extend additional powers to municipalities, and to make exceptions to approval requirements. Second, this Part provides a mechanism to help resolve disputes between local governments or between local governments and the provincial government or its corporations. The dispute resolution process is based on well-regarded processes already established for growth strategies and regional district services.

### Highlights

- ✓ joint management of areas of provincial-local interest;
- ✓ rules on required consultations with the UBCM, before amending local government legislation or changing transfers;
- ✓ opportunity for agreements between the UBCM and province for consultation on other matters of mutual interest;
- ✓ rules against forced amalgamations of municipalities;
- ✓ innovative provincial regulatory powers, including tools to enable exemptions from provincial approvals under any Act, and to add to municipal capacity without the need for legislative amendments; and
- ✓ extends dispute resolution beyond the regional district system, able to be used for both provincial-local and local-local disputes.

### Issue for Discussion:
### Fostering Positive and Constructive Local-Provincial Relations

A major objective of the Community Charter is to create a new relationship between the province and local governments, based on recognition and respect for the legitimate interests of each order of government. The Charter supports this change in relationship by highlighting mutual respect in principles related to the local-provincial relationship.

In addition, the Charter provides for mandatory provincial consultation with UBCM on changes to local government legislation and revenue transfer reductions. More significant, perhaps, are the Charter's provisions for consultation agreements between UBCM and the provincial government. The province and UBCM, on behalf of municipalities, will be empowered to enter into memorandums of understanding and other arrangements respecting consultation on any matters that affect local governments or the provincial government.

It is recognized that government-to-government dialogue is an essential feature of the new relationship. There are a variety of approaches to facilitating governmental dialogue.

The concept of a permanent, statutory consultative body – a permanent Community Charter Council – was a major topic of discussion in regional consultations and a variety of views were expressed. Some favoured the concept while others were concerned about creating an additional and possibly unnecessary institution. The Community Charter Council discussed what roles a permanent council could fulfil. After considerable debate, the Council recommended that if a permanent institution were created, its role should focus on governmental relations. The provincial government is seeking input on the best way of managing future government-to-government dialogue. A range of options present themselves, including:

- ✓ rely on existing organizations to facilitate the necessary dialogue. This is how governmental relations are currently managed between the provinces and the federal government;
- ✓ local governments and the province could set up a consultative body through an agreement under the Charter, but not to enshrine it in legislation. This would enable key provincial and local officials to oversee the implementation of the Charter and give local governments and the province time to consider whether a consultative body should become a permanent institution; or
- ✓ a statutory consultative body, such as a permanent Community Charter Council, could be established to provide a standing forum for face-to-face meetings between the local and provincial orders of government. This would represent a significant change to existing governmental relationships between these two orders of government.

One significant factor to consider in establishing a mechanism for governmental relations, is that creation of a body, even a legislated body, does not in itself change the government to government relationship. That relationship may well be more dependent on an atmosphere of mutual respect and a commitment to resolving joint issues than it is on the particular type of body created to manage the dialogue.

- ☐ Which approach to managing provincial-local relations do you prefer?
- ☐ Is it important to ground the approach to governmental relations in law?

### Continuing Work:
### Land Use Bylaws Applying to Crown Corporations

The provincial government has committed that Crown corporations should abide by local zoning and land use bylaws. To that end, the Premier has written to the Chief Executive Officers of all Crown corporations, requesting that they honour this principle in their day-to-day operations. As well, the Premier has directed the Crown Agencies Secretariat to work with the Crown corporations to address the implications of this commitment. That work is currently under way.

### Schedule – Definitions and Interpretation Rules

The Schedule defines terms used throughout the Community Charter.

## NEXT STEPS

Progress on the Community Charter continues. The Charter aims to make a reality of the vision of municipalities in a new relationship of mutual respect between municipalities and the Province. The Community Charter Council has created the momentum needed to complete the Charter within a compressed timeframe so that citizens can realize its benefits as soon as possible. While much of the Charter is now complete, it remains a work in progress.

The Community Charter is but one part of a much broader government reform initiative that will improve the ability of municipalities to govern themselves. The Community Charter Council worked on many complex issues that are currently being resolved through parallel processes that may eventually be included in the final draft of the Community Charter.

As well, several outstanding issues merit further discussion. Before the provincial government introduces the Community Charter as a Bill, it will use this document as the basis for further consultations with local governments, businesses and other interested parties. The objective is to introduce a Bill in the fall of 2002.

The provincial government has intentionally taken a phased approach to reforming local government legislation by addressing municipal reform first. This focus will provide broad powers to municipalities, strengthen governmental relationships and change public participation opportunities. Future phases will address key issues such as regional districts, elections, regional growth strategies, planning and land use, and heritage conservation.

The provincial government is committed to assisting municipalities with implementation of the new legislation. It proposes to establish a comprehensive program of seminars, explanatory materials and best practices guides.

The *Local Government Act* will remain in effect for a transitional period. Once the Community Charter comes into force, parts of the *Local Government Act* will remain in effect until they are incorporated into the new legislation or moved to separate legislation. The draft Community Charter does not yet include any provisions relating to transition or commencement. Such provisions – and there will be many – will be added as the government readies the new legislation for introduction as a Bill.

## CONCLUSION

The draft Community Charter sets out a new municipal framework. It puts forward a simple vision that enables communities to make their own decisions. This vision allows municipalities to get on with their job of delivering services in the way that best meets unique community needs, while balancing municipal rights with municipal responsibilities. It puts in place an approach, based on mutual respect and recognition between the Province and municipalities, fulfilling a provincial commitment to jointly manage local government issues in a more equal, more responsible and more accountable way than ever before. It builds on the strengths of communities and sees in them the foundation of a brighter future for British Columbia.

# APPENDIX 1

# COMMUNITY CHARTER COUNCIL INTERIM REPORT

## 1. Introduction

The *Community Charter Council Act,* passed in August 2001, provided for the appointment of a Community Charter Council responsible for reviewing government proposals for a Community Charter, and charged the Council with preparing a report for Cabinet that included a draft Community Charter.

## 2. Community Charter Council Interim Recommendations

The Community Charter Council submits the following interim recommendations:

### A recommended Community Charter

The Community Charter Council recommends the draft Community Charter that was delivered to the Minster of State for Community Charter in March, 2002 for further consideration. This draft has been prepared by the Office of the Legislative Counsel of the Ministry of Attorney General of the Province of British Columbia on advice from the Community Charter Council. The members of the Community Charter Council believe that the Charter fulfils the vision of the *Community Charter Council Act* by providing essential municipal empowerment that is balanced with public and provincial interests.

### Recommendations for inclusion in a government paper and other consultations

Throughout its deliberations, the Community Charter Council identified a list of items that could not be resolved fully within the short timeframe available to the Charter Council. The Community Charter Council agreed that these should be included in a government policy paper to facilitate further discussion and consultation. These items include:

- ✓ The provincial government indicated that municipal governments would be provided with new revenue sources, either in the Community Charter or as part of related initiatives. The Council was not asked to recommend potential revenue resources but, rather, respected the government's lead in this matter. The Council expects that this issue will be discussed in the government paper accompanying the release of the draft Charter.

- ✓ The Council concluded that the system for financing municipal borrowings is strong, but that a number of issues related to long-term financial liabilities needed to be reviewed further. Specifically, the Council recommends the creation of a working group, with the Municipal Finance Authority, to look at the issues of liability limits, voter approval and provincial approvals, and to provide recommendations on these.

- ✓ The Council discussed the possibility that property tax exemptions could be used to assist new industry or existing industries experiencing difficulties. The Council did not come to a consensus on this issue, but recommends that the draft Community Charter include a possible scheme, and that the government conduct further consultations on this issue.

- ✓ The Council concluded that the primary focus of a permanent Community Charter Council, if one were created, would be on developing the provincial-local relationship. The Council recommends that the government undertake further discussion, following the release of the draft Charter, as to whether a permanent Council should be involved in additional roles. These roles could include advising and assisting the province and local governments in carrying out their responsibilities under the Charter, advising local government generally, and supporting dispute resolution.

In addition, the Council considered a variety of other issues worthy of further discussion, but concluded that these need not be highlighted in the government's paper, and would be more appropriately dealt with in other processes, such as workshops and symposia. Possible topics for further discussion include the application of standards of ethical conduct to non-elected persons, penalties for violating ethical conduct and confidentiality requirements, and the model of concurrent regulatory jurisdiction.

Appendix 2

# DRAFT

# COMMUNITY CHARTER

May 2002

# DRAFT *COMMUNITY CHARTER*

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# DRAFT *COMMUNITY CHARTER*

## PART 1 – PRINCIPLES AND INTERPRETATION

### Principles of municipal governance

1 (1) Municipalities and their councils are recognized as an order of government within their jurisdiction, that

- (a) are democratically elected, autonomous, responsible and accountable,
- (b) are established and continued by the will of the residents of their communities, and
- (c) provide for the municipal purposes of their communities.

(2) In relation to subsection (1), the Provincial government recognizes that municipalities require

- (a) adequate powers and discretion to address existing and future community needs,
- (b) authority to determine the public interest of their communities, within a legislative framework that supports balance and certainty in relation to the differing interests of their communities,
- (c) the ability to draw on financial and other resources that are adequate to support community needs,
- (d) authority to determine the levels of municipal expenditures and taxation that are appropriate for their purposes, and
- (e) authority to provide effective management and delivery of services in a manner that is responsive to community needs.

### Principles of municipal-provincial relations

2 (1) The citizens of British Columbia are best served when the relationship between municipalities and the Provincial government

- (a) acknowledges and respects the jurisdiction of each,
- (b) works towards harmonization of Provincial and municipal enactments, policies and programs, and
- (c) fosters cooperative approaches to matters of mutual interest.

(2) The relationship between municipalities and the Provincial government is based on the following principles:

- (a) the Provincial government respects municipal authority and municipalities respect Provincial authority;
- (b) consultation is needed on matters of mutual interest, including consultation by the Provincial government on proposed changes to local government legislation or revenue transfers;

(c) before new responsibilities are assigned to a municipality, there must be provision for resources required to fulfill the responsibilities;

(d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;

(e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;

(f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;

(g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.

### Broad interpretation

3 (1) This Act and the *Local Government Act* must be interpreted broadly to give municipalities and their councils adequate powers and discretion to

(a) address existing and future community needs,

(b) determine the public interest of their communities, and

(c) otherwise fulfill municipal purposes.

(2) If

(a) an enactment confers a specific power on a municipality or council in relation to a matter, and

(b) the specific power can be read as coming within a general power conferred by this Act or the *Local Government Act*,

then, subject to any conditions and restrictions established in relation to the specific power, the general power must not be interpreted as being limited by that specific power.

### Definitions and other interpretation rules

4 The Schedule to this Act contains definitions of terms used in this Act and rules of interpretation that apply to this Act.

# PART 2 – MUNICIPAL PURPOSES AND POWERS

## Division 1 – Purposes and Fundamental Powers

### Municipalities and their councils

5 (1) A municipality is a corporation of the residents of its area.

(2) The governing body of a municipality is its council.

(3) New municipalities may be established, and the boundaries of existing municipalities may be altered, in accordance with Part 2 *[Incorporation]* of the *Local Government Act*.

### Municipal purposes

6 The purposes of a municipality include

(a) providing for good government of its community,

(b) providing for services, laws and other matters for community benefit,

(c) providing for stewardship of the public assets of its community, and

(d) fostering the economic, social and environmental well-being of its community.

### Fundamental powers

7 (1) A municipality has the capacity, rights, powers and privileges of a natural person of full capacity.

(2) A municipality may provide any service that the council considers necessary or desirable, and may do this directly or through another public authority or another person or organization.

(3) A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:

(a) municipal services;

(b) people, activities, matters or other things in, on or near a public place or another place open to the public;

(c) animals and activities in relation to animals;

(d) trees and activities in relation to trees;

(e) signs and other advertising devices;

(f) firecrackers, fireworks and explosives;

(g) firearms, bows and arrows, knives and other weapons;

(h) cemeteries, crematoriums, columbariums and mausoleums and the interment or other disposition of the dead;

(i) the health, safety or protection of persons or property in relation to matters referred to in section 59 *[protection of persons and property]*;

(j) the protection and enhancement of the well-being of its community in relation to the matters referred to in section 60 *[nuisances, disturbances and other objectionable situations]*;

(k) public health;

(l) protection of the natural environment;

(m) buildings and other structures;

(n) the removal of soil and the deposit of soil or other material.

(4) A council may, by bylaw, regulate and impose requirements in relation to business, business activities and persons engaged in business.

### Areas of concurrent authority

8 (1) This section applies in relation to the authority under section 7 (3) (k) to (n) as follows:

(a) in relation to section 7 (3) (k) *[public health]*, to the exercise of any authority under that provision;

(b) in relation section 7 (3) (l) *[protection of the natural environment]*, to the exercise of any authority under that provision;

(c) in relation to section 7 (3) (m) *[buildings and other structures]*, to the establishment of standards that are or could be dealt with by the Provincial building regulations;

(d) in relation to section 7 (3) (n) *[removal and deposit of soil and other material]*, to the prohibition of soil removal or the prohibition of the deposit of soil or other material.

(2) A council may not adopt a bylaw under an authority referred to in subsection (1) unless the bylaw is

(a) approved by the minister responsible,

(b) in accordance with an agreement under subsection (3), or

(c) in accordance with a regulation under subsection (4).

(3) The minister responsible may enter into an agreement with a municipality

(a) authorizing the municipality to exercise authority in relation to matters as contemplated by subsection (2) (b), and

(b) establishing conditions and restrictions on the exercise of that authority.

(4) The minister responsible may, by regulation,

(a) establish matters in relation to which municipalities may exercise authority as contemplated by subsection (2) (c), either by specifying the matters in relation to which they may exercise authority or by limiting the matters to which this section applies, and

(b) provide that the exercise of that authority is, or may be made, subject to the restrictions and conditions specified by the minister responsible or another official designated in the regulation.

(5) For certainty, the restriction in subsection (2) does not apply to a bylaw under section 7 *[fundamental powers]* that

- (a) is exercised under a provision of that section to which this section does not apply, or
- (b) is specifically authorized by or under this or another Act.

**Exercise of fundamental powers**

9 Powers provided to municipalities under this Division

- (a) are subject to any specific conditions and restrictions established by or under this or another Act, and
- (b) must be exercised in accordance with this Act, unless otherwise provided by or under this or another Act.

**Relationship with Provincial laws**

10 (1) A provision of a bylaw has no effect if it is inconsistent with this or another Provincial enactment.

(2) For the purposes of subsection (1), unless otherwise provided, a municipal bylaw is not inconsistent with another enactment if a person who complies with the bylaw does not, by this, contravene the other enactment.

**Area of jurisdiction**

11 (1) A municipality and its council may only exercise or perform their powers, duties and functions within the boundaries of the municipality, unless authorized by or under this or another Act.

(2) As one such authority, the municipal powers of a natural person may be exercised outside the boundaries of the municipality.

## Division 2 – General Powers

**Authority to establish conditions and variations**

12 (1) A council may, in its bylaws or in exercising its other powers, establish any terms and conditions it considers appropriate.

(2) A municipal bylaw may do one or more of the following:

- (a) make different provisions for different areas, times, circumstances or conditions;
- (b) establish different classes of persons, places, activities, animals or things;
- (c) make different provisions for different classes;
- (d) make exceptions for different classes.

**Intermunicipal services**

13 (1) A municipality may provide a service in an area outside the municipality, but must first obtain consent as follows:

(a) if the area is in another municipality, the council must obtain the consent of the council of the other municipality;

(b) if the area is not in another municipality, the council must obtain the consent of the regional district board for the area.

(2) In giving consent under subsection (1), the other local government may establish terms and conditions, including terms and conditions respecting

(a) limits on the service to be provided in its area, and

(b) the process for terminating provision of the service in its area.

(3) If consent is given as referred to in subsection (1), the powers, duties and functions of the municipality providing the service may be exercised in relation to that service in the area of the consenting municipality in which that service is provided.

### Intermunicipal regulatory schemes

14 (1) Two or more municipalities may, by bylaw adopted by the council of each participating municipality, establish an intermunicipal regulatory scheme in relation to one or more matters for which they have authority to regulate, prohibit or require.

(2) A bylaw under subsection (1) may do one or more of the following:

(a) provide that the bylaws of one or more of the participating municipalities in relation to the regulatory matters dealt with by the scheme apply in other municipalities participating in the scheme;

(b) provide that one or more of the municipalities may exercise their authorities in relation to the scheme in another municipality participating in the scheme;

(c) restrict a participating municipality from separately exercising its authority in relation to the matters dealt with by the scheme;

(d) establish the process by which a participating municipality may withdraw from the scheme.

### Licensing and other general regulatory powers

15 (1) The authority of a municipality or council to regulate under this or another Act in relation to a matter includes the authority provided under this section.

(2) A council may, in regulating in relation to a matter, provide for a system of licences, permits or approvals, including by one or more of the following:

(a) prohibiting any activity or thing until a licence, permit or approval has been granted;

(b) providing for the granting and refusal of licences, permits and approvals;

(c) providing for the duration periods of licences, permits and approvals;

(d) establishing conditions that must be met for obtaining, continuing to hold or renewing a licence, permit or approval, or providing that such conditions may be imposed, their nature and who may impose them;

(e) providing for the suspension or cancellation of licences, permits and approvals for

(i) failure to comply with a term or condition of a licence, permit or approval, or

(ii) failure to comply with the bylaw;

(f) providing for reconsideration or appeals of decisions made with respect to the issue, suspension or cancellation of licences, permits and approvals.

(3) For certainty, terms and conditions imposed on a licence, permit or approval may include requirements and prohibitions in relation to the regulated matter.

(4) A council may, in regulating in relation to a matter, establish a standard, code or rule by adopting a standard, code or rule

(a) published by a provincial, national or international body or standards association, or

(b) enacted as or under a law of this or another jurisdiction, including a foreign jurisdiction.

(5) A standard, code or rule referred to in subsection (4) may be adopted

(a) in whole, in part or with any changes considered appropriate, and

(b) as it stands at a specific date, as it stands at the time of adoption or as amended from time to time.

**Authority to enter on or into property**

**16** (1) This section applies in relation to an authority under this or another Act for a municipality to enter on property.

(2) The authority may be exercised by officers or employees of the municipality or by other persons authorized by the municipality.

(3) The authority includes authority to enter on or into property without the consent of the owner or occupier but, except in the case of an emergency, a person exercising the authority

(a) may only exercise the authority at reasonable times and in a reasonable manner, and

(b) must take reasonable steps to advise the owner or occupier before entering the property.

(4) Without limiting the matters to which this section applies, a municipality may enter on property for any of the following purposes:

(a) to determine whether all conditions and requirements are being met in relation to any matter for which the council, or a municipal officer or employee, has exercised authority under this or another Act to regulate, prohibit or require;

(b) to take action authorized under section 17 (1) *[municipal action at defaulter's expense]*;

(c) in relation to section 18 *[authority to discontinue providing a service]*, to disconnect or remove the system or works of the service;

(d) for the purposes of an assessment or inspection in relation to the exercise of authority under section 7 (3) (d) *[trees and activities in relation to trees]*.

### Municipal action at defaulter's expense

**17** (1) If a council has authority under this or another Act to require that a thing be done, the council may direct that, if a person subject to the requirement fails to take the required action, the matter or thing is to be done at the expense of the person, with the costs incurred by the municipality in doing this recoverable from the person as a debt.

(2) Division 14 *[Recovery of Special Fees]* of Part 7 *[Municipal Revenue]* applies to an amount recoverable under subsection (1) that is incurred for work done or services provided to land or improvements.

### Authority to discontinue providing a service

**18** (1) A municipality may, by bylaw, establish circumstances in which it may discontinue providing a municipal utility or other service to a property or person

(a) because of unpaid fees or taxes in relation to the service,

(b) because of non-compliance with the rules established by bylaw or contract respecting the use of the service, or

(c) for another reason related to the service.

(2) A bylaw under subsection (1) must include provision for reasonable notice and for the persons affected to have an opportunity to make representations to council.

### Requirements for security

**19** If a municipality imposes a requirement that a person provide the municipality with a cash deposit, letter of credit or other form of security,

(a) interest on the security becomes part of the security,

(b) the security may only be used for the purpose for which it was provided, and

(c) any amount not required for that purpose must be returned to the person who provided the security.

### Emergency powers

**20** (1) If an emergency within the meaning of the *Emergency Program Act* arises in a municipality, the council has the powers provided under that Act.

(2) If another form of emergency arises in a municipality, the council may declare that the emergency exists and provide for the necessary powers to deal with the emergency.

# PART 3 – ADDITIONAL POWERS AND LIMITS ON GENERAL POWERS

## Division 1 – Partnering and Other Agreements

### Partnering agreements

21 Where a municipality enters into a partnering agreement for the provision of a service on behalf of the municipality, the council may

(a) provide assistance, other than tax exemptions, to a business in accordance with the agreement, and

(b) provide assistance by way of a tax exemption in accordance with Division 7 *[Permissive Exemptions]* of Part 7 *[Municipal Revenue]*.

### Agreements granting exclusive or limited franchises

22 (1) A council may, by bylaw adopted with the approval of the electors, enter into an agreement that grants an exclusive or limited franchise for the provision of one or more of the following in accordance with the agreement:

(a) a public transportation system;

(b) water through a water supply system;

(c) gas, electrical or other energy supply system.

(2) The maximum term of an initial agreement or a renewal agreement under this section is 21 years.

### Agreements with other public authorities

23 (1) A council may make agreements with a public authority respecting

(a) activities and services within the powers of a party to the agreement, including agreements respecting the undertaking, provision and operation of activities and services,

(b) operation and enforcement in relation to the exercise of regulatory authority within the powers of a party to the agreement, and

(c) the management of property or an interest in property held by a party to the agreement.

(2) An agreement between a municipality and a public authority in another country respecting the provision and operation of works and services has no effect unless it is approved by the Lieutenant Governor in Council.

## Division 2 – Restrictions on Providing Assistance

### Publication of intention to provide certain kinds of assistance

24 (1) A council must give notice in accordance with section 79 *[public notice]* of its intention to provide any of the following forms of assistance to a person or organization:

(a) disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
(b) lending money;
(c) guaranteeing repayment of borrowing or providing security for borrowing;
(d) assistance under a partnering agreement.

(2) The notice must be published before the assistance is provided and must
(a) identify the intended recipient of the assistance, and
(b) describe the nature, term and extent of the proposed assistance.

### General prohibition against assistance to business and exceptions

25 (1) A council must not provide a grant, benefit, advantage or other form of assistance to a business, including
(a) any form of assistance referred to in section 24 (1) *[publication of intention to provide certain kinds of assistance]*, or
(b) an exemption from a tax or fee,

unless expressly authorized by or under this or another Act.

(2) As exceptions to the restriction under subsection (1), a council may provide assistance to a business for one or more of the following purposes:
(a) acquiring, conserving and developing heritage property and other heritage resources;
(b) gaining knowledge and increasing public awareness about the community's history and heritage;
(c) any other activities the council considers necessary or desirable with respect to the conservation of heritage property and other heritage resources.

(3) As other exceptions to the restriction under subsection (1), a council may, by an affirmative vote of at least 2/3 of all the members of council, provide assistance to a business for the conservation of any of the following property:
(a) property that is protected heritage property;
(b) property that is subject to a heritage revitalization agreement under section 966 of the *Local Government Act*;
(c) property that is subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property.

## Division 3 – General Property Powers

### Notice of proposed property disposition

26 (1) Before a council disposes of land or improvements, it must publish notice of the proposed disposition in accordance with section 79 *[public notice]*.

(2) In the case of property that is available to the public for acquisition, notice under this section must include the following:

(a) a description of the land or improvements;

(b) the nature and, if applicable, the term of the proposed disposition;

(c) the process by which the land or improvements may be acquired.

(3) In the case of property that is not available to the public for acquisition, notice under this section must include the following:

(a) a description of the land or improvements;

(b) the person who is to acquire the property under the proposed disposition;

(c) the nature and, if applicable, the term of the proposed disposition;

(d) the consideration to be received by the municipality for the disposition.

### Exchange or other disposal of park land received by municipality

**27** (1) This section applies to land vested in a municipality under

(a) section 29 *[transfer of subdivision park land]* of this Act,

(b) section 936 (5) (a) *[park land in place of development cost charges]* of the *Local Government Act*, or

(c) section 941 (14) *[park land in relation to subdivision]* of the *Local Government Act*.

(2) A council may, by bylaw adopted with the approval of the electors,

(a) dispose of all or part of the land in exchange for other land suitable for a park or public square, or

(b) dispose of the land, provided that the proceeds of the disposal are be placed to the credit of a reserve fund under section 171 (2) (b) *[park land acquisition reserve fund]*.

(3) Land taken in exchange by a municipality under this section is dedicated for the purpose of a park or public square and the title to it vests in the municipality.

(4) A transfer of land by a municipality under this section has effect free of any dedication to the public for the purpose of a park or a public square and section 30 (3) *[removal of park dedication]* does not apply.

### Disposal of water systems, sewage systems and other utilities

**28** (1) This section applies to works for one or more of the following:

(a) the supply, treatment, conveyance, storage and distribution of water;

(b) the collection, conveyance, treatment and disposal of sewage;

(c) the supply and distribution of gas or electrical energy;

(d) a transportation system;

(e) a telephone system, closed circuit television system or television rebroadcasting system.

(2) A council has unrestricted authority to dispose of works referred to in subsection (1) if

(a) the works are no longer required for the purpose described in subsection (1), or

(b) the works are disposed of to another municipality in the same regional district or to the regional district.

(3) In the case of works referred to in subsection (1) (a) or (b) that are used by a municipality to provide a water or sewer service, the council may only dispose of the works if

(a) an agreement under which the water or sewer service will continue for a period specified in the agreement is in effect, and

(b) the intended disposition and agreement receives the assent of the electors.

(4) In the case of works other than those referred to in subsections (2) and (3), the council may only dispose of the works with the approval of the electors.

### Transfer of subdivision park land

**29** (1) If

(a) land outside a municipality is dedicated to the public for the purpose of a park or a public square by a subdivision plan deposited in the land title office by which title is vested in the Crown, and

(b) that land becomes part of a municipality,

title to the land is vested in the municipality for that purpose, subject to any reservations that applied to the Crown's title.

(2) If, at the time this provision comes into force, land in a municipality is dedicated as referred to in subsection (1) (a), title to the land is vested in the municipality for that purpose, subject to any reservations that applied to the Crown's title.

### Reservation and dedication of municipal property

**30** (1) A council may, by bylaw, reserve or dedicate for a particular municipal or other public purpose real property owned by the municipality.

(2) As a restriction, a bylaw under subsection (1) that reserves or dedicates property

(a) as a park or public square, or

(b) for purposes related to heritage or heritage conservation,

may only be adopted by an affirmative vote of at least 2/3 of all the members of council.

(3) A bylaw that removes a reservation or dedication referred to in subsection (2) may only be adopted with the approval of the electors.

(4) A bylaw that removes a reservation or dedication under subsection (1), other than one referred to in subsection (2), may only be adopted after the council

(a) gives notice of its intention in accordance with section 79 *[public notice]*, and

(b) provides an opportunity for persons who consider that they are affected by the bylaw to make representations to council.

(5) Bylaws adopted or works undertaken by a council that directly affect property which is reserved or dedicated under this section must be consistent with the purpose for which the property is reserved or dedicated.

(6) A reservation or dedication under this section does not commit or authorize a council to proceed with implementation of the purpose for which the property is reserved or dedicated.

## Division 4 – Expropriation and Compensation

### General expropriation power

31 (1) For the purpose of exercising or performing its powers, duties and functions, a municipality may expropriate real property or works, or an interest in them, in accordance with the *Expropriation Act*.

(2) Without limiting subsection (1), in addition to the rights conferred on licensees under sections 27 and 28 of the *Water Act*, a municipality may expropriate

(a) a licence authorizing the diversion of water from a stream suitable for a water supply for the municipality, and

(b) any work constructed or used under authority of the licence.

(3) The powers under subsections (1) and (2) also apply to property outside the municipality for the purposes of

(a) a service provided by the municipality to an area outside the municipality, or

(b) establishing and managing quarries, sand and gravel pits to acquire material for municipal works.

### Authority to enter on and use property

32 (1) Without limiting section 31 *[expropriation power]*, a municipality may, for the purposes of one or more services of the municipality,

(a) enter on, break up, take or enter into possession of real property,

(b) use real property, and

(c) construct works through, under or over real property.

(2) If a municipality provides a service outside the municipality, the power under subsection (1) applies to property outside the municipality in relation to that service.

(3) If a council considers that real property may be injuriously affected by the exercise of a council power, the municipality may enter on real property and undertake works of construction, maintenance or repair in mitigation of injury done or apprehended, or in reduction of compensation.

### Compensation for expropriation and other actions

33 (1) Unless expressly provided otherwise, if a municipality expropriates real property or works under this or any other enactment, compensation is payable to the

owners, occupiers or other persons interested in the property for any damages necessarily resulting from the exercise of those powers beyond any benefit that the person claiming the compensation may derive from the work resulting from the expropriation.

(2) If a municipality

(a) exercises a power to enter on, break up, take or enter into possession of and use any property, or injuriously affects property by the exercise of any of its powers, and

(b) exercises a power referred to in paragraph (a) that does not constitute an expropriation within the meaning of the *Expropriation Act*,

compensation is payable for any loss or damages caused by the exercise of the power.

(3) For the purposes of subsection (2), compensation must be paid as soon as reasonably possible in an amount set

(a) by agreement between the claimant and the municipality, or

(b) if no agreement is reached, by the Expropriation Compensation Board.

### Appropriation of stream channel or bed without compensation

**34** (1) A council may appropriate the land constituting the channel or bed of a stream that passes through the municipality, without compensation to the owner, for the purpose of constructing one or more of the following:

(a) dikes;

(b) works to maintain the proper flow of water in a stream, ditch, drain or sewer in the municipality;

(c) works to reclaim or to protect part of the land mass of the municipality from erosion by action of the sea or a stream, or any other cause;

(d) works to protect all or part of the banks of the stream from erosion or damage;

(e) works to make a watercourse part of the municipal drainage system, whether the watercourse is on a highway or municipal or private land;

(f) works through, under or over land adjoining a highway to protect the highway from damage by water.

(2) Before exercising the power under subsection (1), the council must, by bylaw, define the channel or bed of the stream.

(3) A certified copy of every bylaw under subsection (2), together with a plan showing the channel or bed of the stream as defined in the bylaw, must be filed in the land title office.

## Division 5 – Highways

**Control and ownership of highways**

**35** (1) Subject to this section,

(a) the soil and freehold of every highway in a municipality is vested in the municipality, and

(b) in the case of a highway in a municipality that is not vested under paragraph (a), the right of possession and control of the highway is vested in the municipality.

(2) Subsection (1) (a) does not apply to the following:

(a) land, including the improvements on it, on which Provincial works such as ferry terminals, gravel pits, weigh scales and maintenance yards are located;

(b) arterial highways, including the intersection between an arterial highway and another highway and any interchange between an arterial highway and another highway;

(c) highways in a park, recreation area or ecological reserve established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*;

(d) highways in a regional park under the *Park (Regional) Act*;

(e) a regional trail under the *Park (Regional) Act*, other than a regional trail that is part of the road system regularly used by vehicle traffic;

(f) roads referred to in section 66 of the *Forest Practices Code of British Columbia Act* that have not been declared to be public highways;

(g) in relation to a reserve as defined in the *Indian Act* (Canada), highways in the reserve or that pass through the reserve;

(h) highways vested in the federal government;

(i) public rights of way on private land.

(3) Subsection (1) (b) does not apply to highways referred to in subsection (2) (a) to (f).

(4) In the case of an intermunicipal boundary highway, the councils of the applicable municipalities have joint possession and control over the highway.

(5) The vesting under subsection (1) (a) and the right of possession under subsection (1) (b)

(a) are not adversely affected or derogated from by prescription in favour of any other occupier, and

(b) are subject to any rights reserved by the persons who laid out the highway.

(6) The vesting under subsection (1) (a) includes the vesting of all statutory rights of way and other easements owned by the Provincial government solely for purposes relating to the drainage of a highway that is vested under that subsection, and the interest of the Provincial government under those easements

is transferred to the municipality and the municipality assumes the rights and obligations of the Provincial government in relation to those easements.

(7) The minister responsible for the *Highway Act* may file with the land title office an application satisfactory to the registrar of land titles that identifies an easement referred to in subsection (6) and, on filing, the registrar must register ownership of the easement in the name of the municipality.

(8) The vesting under subsection (1) (a) is subject to the following:

- (a) the right of resumption under subsection (9);
- (b) the limits referred to in section 23 (2) of the *Land Title Act*;
- (c) the exceptions described in section 50 (1) (a) (ii) to (iv) and (b) of the *Land Act*, as if the vesting were made by Crown grant under that Act;
- (d) a reservation, in favour of the Provincial government, of Crown timber within the meaning of the *Forest Act*;
- (e) the vesting does not apply to any of the following that are registered in the name of a person other than the municipality:
  - (i) minerals and placer minerals as defined in the *Mineral Tenure Act*;
  - (ii) coal;
  - (iii) petroleum as defined in the *Petroleum and Natural Gas Act*;
  - (iv) gas or gases.

(9) The Provincial government may, by order of the Lieutenant Governor in Council, resume the property or interest vested in a municipality under subsection (1) (a), if the Lieutenant Governor in Council considers that this is required

- (a) for the purpose of or in relation to an arterial highway,
- (b) for any other transportation purpose, or
- (c) for the purpose of or in relation to a park, recreation area or ecological reserve established or proposed to be established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*.

(10) An order under subsection (9) (a) or (b) may only be made on the recommendation of the minister responsible for the *Highway Act*, and an order under subsection (9) (c) may only be made on the recommendation of the minister responsible for the applicable Act referred to in that subsection.

(11) The minister responsible for the *Highway Act* may, by order made after consultation with the minister responsible for this Act,

- (a) cancel the Provincial government's right of resumption under subsection (9) in relation to a specified highway or in relation to highways within a specified area, or
- (b) specify circumstances in which the Provincial government's right of resumption is cancelled without a specific order.

(12) For certainty, a council may grant a licence of occupation or an easement, or permit an encroachment, in respect of a highway that is vested in the municipality under subsection (1) (a).

### General authority in relation to highways

36 (1) In addition to its authority in relation to highways as a service, a council may regulate and prohibit in relation to all uses of or involving a highway or part of a highway.

(2) The authority of a municipality in relation to highways under any provision of this Act is subject to the following:

(a) traffic and parking on highways may only be regulated in accordance with the *Motor Vehicle Act*, except as expressly provided in this Act;

(b) authority in relation to traffic on arterial highways is subject to section 124 (13) of the *Motor Vehicle Act*;

(c) extraordinary traffic on arterial highways may only be regulated by bylaw adopted with the approval of the minister responsible for the *Highway Act*.

(3) Authority in relation to highways that is provided to a municipality by or under this or another Act includes authority to restrict the common law right of passage by the public over a highway.

### Temporary traffic restriction and traffic control

37 (1) A council may temporarily restrict or prohibit all or some types of traffic on a highway.

(2) In addition to the authority under section 139 *[delegation of council authority]*, a council may, by bylaw, authorize a municipal employee or any other person to control traffic on a highway, or to temporarily restrict or prohibit all or some types of traffic on a highway, in relation to matters specified in the bylaw.

### Regulation of carriers

38 (1) A council may, by bylaw, regulate carriers of persons or things to the extent to which they are not subject to regulation or order under another Act.

(2) A bylaw under this section may do one or more of the following:

(a) establish the maximum and minimum charges that may be made by carriers, which may be different for different areas of the municipality designated by bylaw;

(b) establish and alter routes to be taken by carriers;

(c) limit the number of vehicles with respect to which persons may be licensed in a class of carrier.

### Additional powers in relation to highways

39 A council may, by bylaw, do one or more of the following:

(a) assign a name or number to a highway;

(b) assign numbers to buildings and other structures;

(c) require owners or occupiers of real property to place assigned numbers in a conspicuous place;

(d) require persons who own highways to take specified actions for identifying their highways;

(e) require persons to take specified actions for the purposes of the cleanliness or safety of a highway that they own, that is next to property that they own or occupy or that is affected by property that they own or occupy;

(f) require owners or occupiers of land to fence any part of it abutting on a highway.

### Permanent closure and removal of highway dedication

**40** (1) A council may, by bylaw,

(a) close all or part of a highway to all or some types of traffic, or

(b) reopen all or part of a highway that has been closed.

(2) A council may, by bylaw, remove the dedication of a highway

(a) that has been closed by a bylaw under subsection (1) (a), or

(b) that is to be closed by the same bylaw, or by a bylaw adopted by the council at the same time.

(3) Before adopting a bylaw under this section, the council must

(a) give notice of its intention in accordance with section 79 *[public notice]*, and

(b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.

(4) A bylaw under subsection (2) must be filed in accordance with section 120 of the *Land Title Act* and, on filing, the property subject to the bylaw ceases to be a highway, its dedication as a highway is cancelled and title to the property may be registered in the name of the municipality in accordance with section 120 of the *Land Title Act*.

(5) As a limit on subsection (2), a council may not remove the dedication of a highway that was dedicated by the deposit of a subdivision or reference plan in the land title office if

(a) the highway has not been developed for its intended purpose, and

(b) the owner of the land at the time the plan was deposited is the owner of all of the parcels created by the plan,

unless the owner of the parcels consents.

(6) This section, and not section 30 *[reservation and dedication of municipal property]*, applies to cancelling the dedication of a highway.

(7) For certainty, this section applies to public highways under section 4 of the *Highway Act*.

### Restrictions in relation to highway disposition, closure or alteration

41 (1) As a restriction, if

(a) a bylaw under section 40 (1) (a) *[authority to permanently close]* affects a highway, or part of a highway, that provides access to the ocean or a lake, river or other stream or watercourse, and

(b) the municipality is proposing to dispose of that highway or part,

the municipality may only dispose of the highway or part if

(c) the municipality is exchanging the property for other property that, in the opinion of council, provides public access to the same body of water that is of at least equal benefit to the public, or

(d) the proceeds of the disposition are to be paid into a reserve fund, with the money from the reserve fund used to acquire property that, in the opinion of council, provides public access to the same body of water that is of at least equal benefit to the public.

(2) If the effect of

(a) a proposed highway closure under section 40 (1) (a), or

(b) a proposed alteration of a highway

will be to completely deprive an owner of the means of access to their property, the municipality must either

(c) obtain the consent of the owner before the owner is deprived of access, or

(d) in addition to paying any compensation required under section 33 (2) *[compensation for injurious affection]*, ensure that the owner has another means of access that, in the opinion of the council, is sufficient for this purpose.

(3) As a restriction on the authority under section 40 (1), if the highway or part of a highway to be closed or reopened is within 800 metres of an arterial highway, the bylaw under that section may only be adopted if it is approved by the minister responsible for the *Highway Act*.

### Agreements respecting compensation for extraordinary traffic

42 If a municipal bylaw regulates extraordinary traffic on a highway other than an arterial highway, the council may enter into an agreement with a person subject to the bylaw that provides

(a) for the payment of compensation to the municipality for the damage or expense that may be caused by the extraordinary traffic, and

(b) that, so long as the person is in compliance with the agreement, the person is not subject to the bylaw in relation to that traffic.

### Agreements respecting municipal equipment on utility poles

43 (1) A council may require a person who is permitted to erect poles on highways to provide reasonable accommodation on the poles for wires and equipment of the

municipality on agreed terms, and section 157 *[limit on borrowing and other liabilities]* does not apply to the agreement.

(2) If the parties are unable to reach an agreement referred to in subsection (1), the matters must be settled by arbitration, and for these purposes the *Commercial Arbitration Act* applies.

### Agreements to reserve land for highway purposes

**44** If a council enters into an agreement with an owner of land to reserve any part of the land for highway purposes, the agreement has the effect of a restrictive covenant running with the land and must be registered by the municipality under section 219 of the *Land Title Act*.

### Highway construction and dikes

**45** (1) A person must not interfere with the level of a dike that is crossed by a highway or private road.

(2) If

(a) the top of a dike forms a portion of a highway, and

(b) the council has not granted a diking commission the privilege of using the existing highway for a dike,

it is the duty of the council to maintain the dike at a constant level, and to repair all injury directly or indirectly caused to the dike by its use as a highway.

(3) For certainty, a council's duty under subsection (2) is limited to the highway as a highway and, except as otherwise required, does not extend to or include repair or maintenance of the dike as distinct from the highway.

### Use of highways and public places

**46** (1) Except as permitted by bylaw, a person must not excavate in, cause a nuisance on, obstruct, foul or damage any part of a public highway or other public place.

(2) A council may, by bylaw,

(a) authorize the seizure of things unlawfully occupying a portion of a highway or public place,

(b) establish fees for such seizure that are payable by the owner of the thing, and

(c) provide for the recovery of those fees from the owner of the thing, including by sale of the thing if the owner refuses to pay or cannot be identified after reasonable efforts.

## Division 6 – Animal Control

### Seizure and related powers

**47** A council may, by bylaw, do one or more of the following:

(a) provide for the seizure of animals that are

- (i) unlicensed, if there is a requirement that they be licensed,
- (ii) unlawfully at large on a highway or in a public place,
- (iii) straying or trespassing on private property, or
- (iv) on unfenced land and not securely tethered or contained;

(b) establish penalties to be paid in relation to animals seized under this section;

(c) establish or regulate fees to be paid in respect of seizures under this section;

(d) provide for the sale, other disposition or destruction of impounded animals, if

- (i) the animals are not claimed within the time and in the manner established by the bylaw, or
- (ii) the penalty or fees are not paid within a reasonable time;

(e) provide for the seizure and destruction of any animal that is subject to suffering that, in the opinion of council or a person designated by council, cannot be otherwise reasonably addressed.

### Special powers in relation to dangerous dogs

48 (1) In this section:

**"animal control officer"** means

- (a) a municipal employee, officer or agent designated by the council as an animal control officer for the purposes of this section, or
- (b) a peace officer;

**"companion animal"** means an animal kept as a pet or as a guide animal;

**"dangerous dog"** means a dog that

- (a) has killed or seriously injured a person,
- (b) has killed or seriously injured a companion animal or a domestic animal, while in a public place or while on private property, other than property owned or occupied by the person responsible for the dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person;

**"domestic animal"** means a domestic animal as defined in the *Livestock Protection Act*.

(2) In addition to the authority under section 47 (a) but subject to this section, an animal control officer may seize a dog if the officer believes on reasonable grounds that the animal is a dangerous dog.

(3) Before exercising a power under subsection (2), in the case of a dog that has acted as described in paragraph (a) or (c) of the definition of "dangerous dog", the animal control officer must consider whether the dog was acting while in the course of

- (a) attempting to prevent a person from committing an unlawful act, or
- (b) performing law enforcement work.

(4) An animal control officer may enter a place to exercise the power under subsection (2),

- (a) in any case, with the consent of the owner or occupier of the place,
- (b) in any case, in accordance with a warrant under subsection (5) or (6), or
- (c) if the circumstances referred to in subsection (8) apply, in accordance with that subsection.

(5) If satisfied by evidence given under oath or affirmation that there are reasonable grounds to believe that there is a dangerous dog in a place, a justice may, by warrant, authorize an animal control officer to enter and search the place and to seize the dog.

(6) If

- (a) it is impracticable for an animal control officer to appear personally before a justice to apply for a warrant in accordance with subsection (5), and
- (b) the officer believes on reasonable grounds that there is a dangerous dog in a place,

the officer may apply for a warrant in accordance with the regulations under subsection (7).

(7) The Lieutenant Governor in Council may make regulations respecting the authority and procedure for warrants under subsection (6).

(8) Subject to subsection (9), an animal control officer may, without a warrant, enter and search any place except a dwelling house and seize a dog, if the officer believes on reasonable grounds that

- (a) the dog is a dangerous dog,
- (b) the dog presents an imminent danger to the public, and
- (c) the purpose of seizing the dog cannot reasonably be accomplished if the officer is required to obtain a warrant.

(9) For the purposes of subsection (8), an animal control officer who is not a police officer must be accompanied by a police officer.

(10) In addition to the authority under section 8 of the *Livestock Protection Act*, in relation to a dog that the animal control officer has reasonable grounds to believe is a dangerous dog, the animal control officer may apply to the Provincial Court for an order that the dog be destroyed in the manner specified in the order.

(11) A dog that has been seized under this section may not be impounded and detained for more than 21 days unless proceedings under subsection (10) of this section or section 8 of the *Livestock Protection Act* are commenced within that time.

## Division 7 – Authority in relation to Trees

### Restrictions in relation to authority

**49** (1) A bylaw under section 7 (3) (d) *[spheres of authority – trees and activities in relation to trees]* that is in relation to the protection of trees does not apply to the following:

(a) land and the trees on it if forestry practices on the land are governed by a tree farm licence, permit or other authority or tenure under the *Forest Act*;

(b) land and the trees on it if section 17 of the *Forest Land Reserve Act* applies to the land;

(c) tree cutting or removal that is undertaken by a utility, on land owned or held by the utility, and done for the purpose of safety, maintenance or operation of the utility's infrastructure.

(2) Subject to subsection (3), if a bylaw under section 7 (3) (d) would have the effect on a parcel of land of

(a) preventing all uses permitted under the applicable zoning bylaw, or

(b) preventing the development to the density permitted under the applicable zoning bylaw,

the bylaw does not apply to the parcel to the extent necessary to allow a permitted use or the permitted density.

(3) A bylaw referred to in subsection (2) applies without limit to a parcel if the council, by resolution, commits the municipality to

(a) pay compensation to the owner of the parcel for any reduction in the market value caused by the prohibition, or

(b) provide, by development permit, development variance permit or otherwise, alternative means for the parcel to be used for a permitted use or developed to the permitted density.

(4) For the purposes of subsection (3),

(a) the compensation must be as determined and paid as soon as reasonably possible in an amount set by agreement between the owner and the municipality or, if no agreement is reached, by the Expropriation Compensation Board, and

(b) the council may issue a development permit or development variance permit on its own initiative without an application from the owner.

### Compensation not payable

**50** Except as provided in section 49 (3), no compensation is payable to any person for a reduction in the value of any interest in land that results from

(a) a bylaw under section 7 (3) (d) *[spheres of authority – trees and activities in relation to trees]*, or

(b) the issue or refusal of a permit required under such a bylaw.

### Right to reconsideration by council

**51** If a council delegates powers, duties or functions in relation to its authority under section 7 (3) (d) *[spheres of authority – trees and activities in relation to trees]*, the owner or occupier of real property that is subject to a decision of a delegate is entitled to have the council reconsider the matter.

## Division 8 – Building Regulation

### General authority in relation to buildings and structures

**52** (1) A council may only exercise its authority under section 7 (3) (m) *[spheres of authority – buildings and structures]* or this Division for the health, safety or protection of persons or property.

(2) If a building inspector refuses to issue a building permit that is required under section 7 (3) (m), on request of the applicant, the building inspector must give written reasons for the refusal.

### Withholding of occupancy permits

**53** If a municipal permit is required before a building or part of a building is occupied, in addition to any conditions established under section 15 *[licensing and other regulatory powers]*, the permit may be withheld until the building or part of it complies with any of the following:

(a) the Provincial building regulations;

(b) bylaws under section 7 (3) (m) *[spheres of authority – buildings and other structures]*;

(c) any other health and safety requirements established by bylaw;

(d) any other federal or Provincial enactment in relation to health or safety.

### Requirement for certification by engineer or architect

**54** A council may, by bylaw, do one or both of the following:

(a) require applicants for building permits, in circumstances as specified in the bylaw that relate to

(i) site conditions,

(ii) the size or complexity of developments, or

(iii) aspects of developments,

to provide the municipality with a certification by a professional engineer or architect that the plans submitted with the permit application, or specified aspects of those plans, comply with the then current Provincial building code and other applicable enactments respecting safety;

(b) authorize building inspectors for the municipality to require applicants for building permits to provide the municipality with a certification referred to in paragraph (a) if a building inspector considers that this is warranted by circumstances that relate to matters referred to in paragraph (a) (i) to (iii).

### Authority for building inspector to require engineering report

55 (1) For the purposes of this section:

**"construction"** means

(a) the new construction of a building or structure, or

(b) the structural alteration of or addition to an existing building or structure,

but does not include the repair of an existing building or structure;

**"qualified engineer"** means a professional engineer with experience in geotechnical engineering.

(2) If

(a) a bylaw regulating the construction of buildings or structures is in effect, and

(b) the building inspector considers that construction would be on land that is subject to or is likely to be subject to flooding, mud flows, debris flows, debris torrents, erosion, land slip, rockfalls, subsidence or avalanche,

a building inspector may require the owner of land to provide the building inspector with a report certified by a qualified engineer that the land may be used safely for the use intended.

(3) If a qualified engineer determines that the land may not be used safely for the use intended, a building inspector must not issue a building permit.

(4) A building inspector may issue a building permit in accordance with subsection (5) if a qualified engineer certifies that the land may be used safely for its intended use if this is done in accordance with the conditions specified in the engineer's report.

(5) A building permit under subsection (4) may only be issued on the following conditions:

(a) the owner of the land covenants with the municipality to use the land only in the manner certified by the engineer as enabling the safe use of the land for the use intended;

(b) the covenant contains conditions respecting reimbursement by the owner for any expenses that may be incurred by the municipality as a result of a breach of a covenant under paragraph (a);

(c) the covenant is registered under section 219 of the *Land Title Act*.

(6) If a building inspector is authorized to issue a building permit under subsection (4) but refuses to do so, the council may, on application of the owner, direct the building inspector to issue the building permit subject to the requirements of subsection (5).

## Division 9 – Business Regulation

### Prohibition powers

**56** (1) If a council considers that a bylaw under section 7 (3) *[spheres of authority other than business]* would have the effect of prohibiting a business or business activity, before adopting the bylaw the council must

- (a) give notice of the bylaw in accordance with section 79 *[public notice]*, and
- (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.

(2) A council may, by bylaw that is not subject to subsection (1), prohibit one or more of the following:

- (a) the operation of a public show, exhibition, carnival or performance of any kind or in any particular location;
- (b) the operation of places of amusement to which the public has access, including halls and other buildings where public events are held;
- (c) professional boxing, professional wrestling and other professional athletic contests;
- (d) the carrying on of a noxious or offensive business activity.

### Business licence authority

**57** (1) An application for a business licence may be refused in any specific case, but

- (a) the application must not be unreasonably refused, and
- (b) on request, the person or body making the decision must give written reasons for the refusal.

(2) In addition to the authority under section 15 (2) (e) *[licences, permits and approvals]*, a business licence may be suspended or cancelled for reasonable cause.

(3) Before suspending or cancelling a business licence, the council must give the licence holder notice of the proposed action and an opportunity to be heard.

(4) Despite section 140 (2) (c) *[restriction on delegation of hearings]*, a council may, by bylaw under section 139 *[delegation of council authority]*, authorize a municipal officer or employee to suspend or cancel a business licence.

(5) If a municipal officer or employee exercises authority to grant, refuse, suspend or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have the council reconsider the matter.

### Restriction on authority to require examination or certification

**58** A provision in a bylaw under section 7 (4) *[spheres of authority – businesses, business activities or persons engaged in business]* that requires an examination or certification of a person engaged in a trade or occupation does not apply to a person who has been granted a certificate or other evidence of competence for that trade or occupation under a Provincial or federal Act.

## Division 10 – Protection Authority Spheres

### Protection of persons and property

**59** The authority of a council under section 7 (3) (i) *[spheres of authority – protection of persons and property]* may be exercised in relation to the following:

(a) emergency exits in places to which the public is invited;

(b) smoke alarms, to the extent that any standards established under this authority do not exceed those established by the Provincial building regulations;

(c) any matter within the scope of the *Fire Services Act*;

(d) the enclosure of swimming pools and other pools;

(e) trailer courts, manufactured home parks and camping grounds;

(f) residential premises and residential property, as those are defined in the *Residential Tenancy Act*, that are subject to a tenancy agreement, as defined in that Act, to the extent that any standard established under this authority does not exceed those established by the Provincial building regulations.

### Nuisances, disturbances and other objectionable situations

**60** The authority of a council under section 7 (3) (j) *[spheres of authority – nuisances and other disturbances]* may be exercised in relation to the following:

(a) nuisances;

(b) noise, vibration, odour, dust, illumination or any other matter that, in the opinion of council, is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;

(c) refuse, garbage or other material that is noxious, offensive or unwholesome;

(d) the use of waste disposal and recycling services;

(e) the accumulation of water on property;

(f) unsanitary conditions on property;

(g) drains, cesspools, septic tanks and outhouses;

(h) trees, shrubs, weeds or other growths that, in the opinion of council, should be removed, cut down or trimmed;

(i) graffiti and unsightly conditions on property;

(j) indecency and profane, blasphemous or grossly insulting language.

## Division 11 – Other Powers

### Fire chief powers

**61** (1) The municipal fire chief or another person authorized by council may do one or more of the following:

(a) enter on property and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;

(b) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fire;

(c) require an owner or occupier of real property to undertake any actions directed by the fire chief or other authorized person for the purpose of removing or reducing any thing or condition that person considers is a fire hazard or increases the danger of fire;

(d) exercise some or all of the powers of the fire commissioner under section 25 of the *Fire Services Act*, and for these purposes that section applies.

(2) The authority of the fire chief under subsection (1) may be exercised by a person acting under the authority of the fire chief.

### Disposal of property in police possession

**62** (1) Property that has come into the custody and possession of the police force or police department on behalf of a municipality may be disposed of in accordance with the regulations if

(a) the owner of the property has not been identified after reasonable effort, and

(b) a court of competent jurisdiction has not made an order in respect of the property.

(2) A person who receives or purchases property by a disposal under this section has a good and sufficient title to that article as against any former owner of it.

(3) The municipality, a member of the council, a person in lawful custody of property referred to in subsection (1), or an officer, employee or agent of the municipality, is not liable in damages or otherwise for or in respect of any claim that may arise in respect of the property after it has been disposed of in accordance with this section.

### Restriction on authority to fluoridate

**63** A council must not fluoridate a water supply for the municipality unless it has adopted a bylaw for this and the bylaw has received the assent of the electors.

### Specific authority in relation to drainage, sewage and dikes

**64** A council may, by bylaw, do one or more of the following:

(a) in relation to drainage and sewerage works provided by persons other than the municipality,

  (i) regulate their design and installation, and

  (ii) require property owners to connect their buildings and structures to the works in the manner specified in the bylaw;

(b) impose requirements on persons undertaking the construction of works to

(i) maintain the proper flow of water in a stream, ditch, drain or sewer in the municipality, or

(ii) reclaim or protect part of the land mass of the municipality from erosion by any cause;

(c) impose requirements on the owners of dikes or persons undertaking the construction of dikes;

(d) make a watercourse part of the municipal drainage system, whether the watercourse is on municipal land, private land or a highway.

**Intermunicipal drainage control**

65 (1) This section applies if a council

(a) considers that

(i) the drainage of surface water from outside the municipality into or through an area inside the municipality should be prevented, diverted or improved, or

(ii) drainage of or from an area in the municipality should be prevented, continued beyond the municipality, diverted or improved, and

(b) proposes to undertake works for these purposes.

(2) Before undertaking the proposed works, the council must

(a) serve notice of its intention on all owners of land that may be affected,

(b) give notice of its intention to any other local government whose area may be affected, and

(c) provide an opportunity for persons who consider they are affected by the works to make representations to council.

(3) After complying with subsection (2), the municipality may enter on property, including property outside the municipality, for the purpose of undertaking the proposed works.

# PART 4 – PUBLIC PARTICIPATION AND COUNCIL ACCOUNTABILITY

## Division 1 – Elections, Petitions and Elector Consultations

### General local elections

**66** A general local election for the mayor and all councillors of each municipality must be held in the year 2002 and every 3 years after that.

### By-elections

**67** (1) Except as permitted under subsection (2), a by-election must be held to fill a vacancy on a council that occurs in any of the following circumstances:

- (a) the person elected or appointed to the office dies before taking office;
- (b) the person holding the office dies;
- (c) the person holding the office resigns under section 106 *[resignation from council]*;
- (d) the person holding the office is disqualified under Division 7 *[Disqualification]* of this Part;
- (e) the office is declared vacant under section 96 *[application to court for declaration of disqualification]*;
- (f) the office is declared vacant on an application under Part 3 *[Electors and Elections]* of the *Local Government Act*, or a candidate affected by such an application renounces claim to the office.

(2) A council may decide not to hold a by-election if

- (a) the vacancy occurs after January 1 in the year of a general local election that will fill the office,
- (b) the vacancy is not in an office elected on the basis of a neighbourhood constituency, and
- (c) the number of remaining council members is at least one greater than the quorum for the council.

(3) A person elected in a by-election holds office until the end of the term of office in respect of which the by-election was held.

### Election proceedings

**68** General local elections and by-elections must be held in accordance with Part 3 *[Elections and Electors]* of the *Local Government Act*.

### Petitions to council

**69** (1) A petition to a council is deemed to be presented to council when it is filed with the corporate officer.

(2) A petition to a council must include the full name and residential address of each petitioner.

### Council may seek electors' opinion

70 (1) A council may seek the electors' opinion on a question that the council believes affects the municipality, by voting or any other process the council considers appropriate.

(2) The results of a process under this section are not binding on the council.

## Division 2 – Approval of the Electors

### Approval of the electors

71 (1) If approval of the electors is required by or under this Act or the *Local Government Act* in relation to a proposed bylaw, agreement or other matter, that approval may be obtained either by

(a) assent of the electors in accordance with section 72, or

(b) approval of the electors by alternative elector approval process in accordance with section 73.

(2) If two or more related matters require the assent of the electors or the approval of the electors, instead of seeking that assent or approval in relation to each matter, the council may seek the assent or approval in relation to the related matters as if they were a single matter.

(3) As a restriction, if any of the related matters referred to in subsection (2) requires the assent of the electors, approval of the electors in relation to all the matters may only be obtained by assent of the electors.

### Assent of the electors

72 (1) If assent of the electors is required or authorized by or under this Act or the *Local Government Act* in relation to a proposed bylaw, agreement or other matter, that assent is obtained only if a majority of the votes counted as valid are in favour of the bylaw or question.

(2) Part 4 *[Other Voting]* of the *Local Government Act* applies to obtaining the assent of the electors.

### Alternative approval process

73 (1) Approval of the electors by alternative approval process under this section is obtained if

(a) notice of the approval process is published in accordance with subsection (2),

(b) through elector response forms established under subsection (3), electors are provided with an opportunity to indicate that council may not proceed with the bylaw, agreement or other matter unless it is approved by assent of the electors, and

(c) at the end of the time for receiving elector responses, as established under subsection (3), the number of elector responses received is less than 10% of the number of electors of the area to which the approval process applies.

(2) Notice of an alternative approval process must be published in accordance with section 79 *[public notice]* and must include the following:

(a) a general description of the proposed bylaw, agreement or other matter to which the approval process relates;

(b) a description of the area to which the approval process applies;

(c) the deadline for elector responses in relation to the approval process;

(d) a statement that the council may proceed with the matter unless, by the deadline, at least 10% of the electors of the area indicate that the council must obtain the assent of the electors before proceeding;

(e) a statement that

(i) elector responses must be given in the form established by the council,

(ii) these forms are available at the municipal hall, and

(iii) the only persons entitled to sign the forms are the electors of the area to which the approval process applies;

(f) the number of elector responses required to restrict the council from proceeding, determined in accordance with subsection (3);

(g) other information required by regulation to be included.

(3) For each alternative approval process, the council must

(a) establish the deadline for receiving elector responses, which must be at least 30 days after the second publication of the notice under subsection (2),

(b) establish elector response forms, which

(i) may be designed to allow for only a single elector response on each form or for multiple elector responses, and

(ii) must be available to the public at the municipal hall from the time of first publication until the deadline, and

(c) make a fair determination of the total number of electors of the area to which the approval process applies.

(4) The council must make available to the public, on request, a report respecting the basis on which the determination under subsection (3) (c) was made.

(5) For the purposes of this section, the electors of the area to which an alternative approval process applies are the persons who would meet the qualifications referred to in section 161 (1) (a) *[assent – who may vote]* of the *Local Government Act* if assent of the electors were sought in respect of the matter.

(6) Elector responses may be made on an elector response form obtained under subsection (3) or on an accurate copy of the form.

(7) For an elector's response to be considered for the purposes of this section, the elector must

- (a) sign an elector response form that includes
  - (i) the person's full name and residential address, and
  - (ii) if applicable, the address of the property in relation to which the person is entitled to register as a non-resident property elector, and
- (b) submit the elector response form to the corporate officer before the deadline established for the alternative approval process.

(8) After the deadline for an alternative approval process has passed, the corporate officer must determine and certify, on the basis of the elector response forms received before that deadline, whether elector approval in accordance with this section has been obtained.

(9) A determination under subsection (8) is final and conclusive.

(10) A person must not sign more than one elector response form in relation to the same alternative approval process, and a person who is not an elector for the area of the approval process must not sign an elector response form.

**See Part 6 of the accompanying paper for discussion of this alternative approval process within the context of financial liability procedures.**

## Division 3 – Open Meetings

### General rule that meetings must be open to the public

**74** (1) A meeting of a council must be open to the public, except as provided in this Division.

(2) A council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

### Meetings that may or must be closed to the public

**75** (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;

(b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;

(c) labour relations or other employee relations;

(d) the security of the property of the municipality;

(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure might reasonably be expected to harm the interests of the municipality;

(f) law enforcement, if the council considers that disclosure might reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;

(g) litigation or potential litigation affecting the municipality;

(h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;

(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

(j) information that is prohibited or, if it were presented in a document, would be prohibited from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;

(k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could harm the interests of the municipality if they were held in public;

(l) discussions with municipal officers and employees respecting municipal objectives, measures and accomplishments for the purposes of annual municipal reports;

(m) a matter that, under another enactment, is such that the public may be excluded from the meeting;

(n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);

(o) the consideration of whether the authority under section 76 *[other persons attending closed meetings]* should be exercised in relation to a council meeting;

(p) a prescribed matter.

(2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:

(a) a request under the *Freedom of Information and Protection of Privacy Act*, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;

(b) the consideration of information received in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;

(c) a matter that, under another enactment, is such that the public must be excluded from the meeting.

(3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.

### Other persons attending closed meetings

**76** (1) If all or part of a meeting is closed to the public, the council may allow one or more municipal officers and employees to attend or exclude them from attending, as it considers appropriate.

(2) If all or part of a meeting is closed to the public, the council may allow a person other than municipal officers and employees to attend,

(a) in the case of a meeting that must be closed under section 75 (2), if the council considers this appropriate and the person already has knowledge of the confidential information, and

(b) in other cases, if the council considers this appropriate.

### Requirements respecting closed meetings

**77** (1) Before holding a meeting or part of a meeting that is to be closed to the public, a council must state, by resolution passed in a public meeting,

(a) the fact that the meeting or part is to be closed, and

(b) the basis under the applicable subsection of section 75 on which the meeting or part is to be closed.

(2) The minutes of a meeting or part of a meeting that is closed to the public must record the names of all persons in attendance.

### Application of rules to other bodies

**78** In addition to its application to council meetings, this Division also applies to meetings of the following:

(a) council committees;

(b) a municipal commission established under section 128;

(c) a parcel tax roll review panel established under section 187;

(d) a board of variance established under section 899 of the *Local Government Act*;

(e) an advisory body established by a council;

(f) a body that under this or another Act may exercise the powers of a municipality or council;

(g) a prescribed body.

## Division 4 – Public Notice and Access to Records

### Requirements for public notice

**79** (1) If this section applies, the applicable notice must be

- (a) posted in the public notice posting places, and
- (b) published in a newspaper that is distributed at least weekly
  - (i) in the area affected by the subject matter of the notice, and
  - (ii) if the area affected is not in the municipality, also in the municipality.

(2) In relation to the obligation under subsection (1) (b),

- (a) unless otherwise provided, the publication must be once each week for 2 consecutive weeks, and
- (b) the obligation may be met by publication of the notice in more than one newspaper, if this is in accordance with that subsection when the publications are considered together.

(3) If publication under subsection (1) (b) or (2) (b) is not practicable, the notice may be given in the areas by alternative means as long as the notice

- (a) is given within the same time period as required for publication,
- (b) is given with the same frequency as required for publication, and
- (c) provides notice that council considers is reasonably equivalent to that which would be provided by newspaper publication if it were practicable.

(4) As an exception, subsection (3) (b) does not apply in relation to an area if the alternative means is by individual distribution to the persons resident in the area.

(5) If the same matter is subject to 2 or more requirements for publication in accordance with this section, the notices may be combined so long as the requirements of all applicable provisions are met.

(6) A council may provide any additional notice respecting a matter that it considers appropriate, including by the Internet or other electronic means.

### Public access to municipal records

**80** (1) A council may, by bylaw, provide for public access to its records and establish procedures respecting that access.

(2) If an enactment requires that a municipal record be available for public inspection, that obligation is met by having the record available for public inspection at the municipal hall during regular office hours.

(3) If a municipal record is available for public inspection, a person may have a copy made of all or part of the record on payment of any applicable fee established by the council under section 177 *[municipal fees]*.

(4) A person inspecting a record of a municipality must not, without authorization, remove the record from the place where it has been provided for inspection.

### Agreements that require elector approval or assent

81 (1) If an agreement is proposed or made in relation to a matter that requires approval of the electors or assent of the electors,

- (a) the agreement, and
- (b) all records relating to the agreement that are in the custody or under the control of the municipality,

must be available for public inspection at the municipal hall during the time when the assent or approval process is underway.

(2) Subsection (1) does not apply to records that must not be disclosed under the *Freedom of Information and Protection of Privacy Act*.

(3) If an agreement is in relation to a matter that requires assent of the electors or approval of the electors, the requirement also applies to an amendment to the agreement in relation to that matter.

(4) As an exception, subsection (3) does not apply if the amendment is authorized by regulation or is made with the approval of the minister.

### Other records to which public access must be provided

82 (1) The following municipal records must be available for public inspection:

- (a) all bylaws and all proposed bylaws that have been given first reading;
- (b) all minutes of council meetings, other than a meeting or part of a meeting that is closed to the public;
- (c) all minutes of meetings of bodies referred to in section 78 *[application of rules to other bodies]*, other than a meeting or part of a meeting that is closed to the public;
- (d) the annual municipal report under section 83;
- (e) the report under section 151 *[council remuneration and expenses]*;
- (f) the written disclosures referred to in section 6 (1) *[disclosures by council members and nominees]* of the *Financial Disclosure Act*.

(2) The obligation under subsection (1) is met if the record is made available at the municipal hall within 7 days after it has been requested.

## Division 5 – Reporting

### Annual municipal report

83 (1) Before June 30 in each year, a council must

- (a) prepare an annual report respecting the previous year,
- (b) make the report available for public inspection under section 82, and

(c) have the report available for public inspection at the annual public meeting under section 84.

(2) The annual report must include the following information:

(a) the audited annual financial statements referred to in section 150 (4) for the year;

(b) for each tax exemption provided by a council under Division 7 *[Permissive Tax Exemptions]* of Part 7 *[Municipal Revenue]*, the amount of property tax revenue foregone in the year;

(c) a report respecting municipal services and operations for the year;

(d) as an indication of council's intentions for the coming years,

(i) the municipal objectives for the year in which the report is presented and the following year, and

(ii) the measures that will be used to determine whether these objectives are being met;

(e) in relation to the year for which the report is prepared, a report on municipal accomplishments in relation to the objectives and measures established for that year under paragraph (d);

(f) any declarations of disqualification made under section 96 *[application to court for declaration of disqualification]*, including identification of the council member or former council member involved and the nature of the disqualification;

(g) any other information the council considers advisable.

### Annual public meeting

**84** (1) The council must hold an annual public meeting to

(a) present the annual report prepared under section 83, and

(b) consider submissions and questions from the public.

(2) The council must give notice of the day, hour and place of the annual meeting in accordance with section 79 *[public notice]*.

## Division 6 – Conflict of Interest

### Disclosure of conflict

**85** (1) This section applies to council members in relation to

(a) council meetings,

(b) council committee meetings, and

(c) meetings of any other body referred to in section 78 *[application of open meeting rules to other bodies]*.

(2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has

(a) a direct or indirect pecuniary interest in the matter, or

(b) another interest in the matter that constitutes a conflict of interest,

the member must declare this and state the general nature of why the member considers this to be the case.

(3) After making a declaration under subsection (2), the member must not do anything referred to in section 86 (2) *[restrictions on participation]*.

(4) As an exception to subsection (3), if a member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting the member's entitlement to participate in respect of the matter, the member may

(a) return to the meeting or attend another meeting of the same body,

(b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and

(c) after this, participate and vote in relation to the matter, but remaining subject to section 86.

(5) When a declaration under subsection (2) or a statement under subsection (4) is made,

(a) the person recording the minutes of the meeting must record

(i) the member's declaration or statement,

(ii) the reasons given for it, and

(iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and

(b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

**Restrictions on participation if in conflict**

**86** (1) This section applies if a council member has a conflict referred to in section 85 (2) (a) *[pecuniary interest]*, whether or not the member has made a declaration under that section.

(2) The council member must not

(a) remain or attend at any part of a meeting referred to in section 85 (1) during which the matter is under consideration,

(b) participate in any discussion of the matter at such a meeting,

(c) vote on a question in respect of the matter at such a meeting, or

(d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.

(3) A person who contravenes this section is disqualified from continuing to hold office as a council member unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### Restrictions on inside influence

**87** (1) A council member must not influence or attempt to influence, directly or indirectly, a decision, recommendation or other action to be made or taken

- (a) at a meeting referred to in section 85 (1) *[disclosure of conflict]*,
- (b) by an officer or an employee of the municipality, or
- (c) by a delegate under section 139 *[delegation of council authority]*,

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from continuing to hold office as a council member unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### Restrictions on outside influence

**88** (1) In addition to the restriction under section 87, a council member must not use his or her office to seek to influence any decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or action relates.

(2) A person who contravenes this section is disqualified from continuing to hold office as a council member unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### Exceptions from conflict restrictions

**89** (1) Sections 85 to 88 do not apply if one or more of the following circumstances applies:

- (a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
- (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
- (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
- (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
- (e) the pecuniary interest is of a nature prescribed by regulation.

(2) Despite sections 85 to 88, if

- (a) this or another Act provides a right to be heard in respect of a matter, and

(b) a council member is restricted by one or more of those sections from exercising that right in relation to the matter,

the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

### Restrictions on accepting gifts

**90** (1) A council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the performance of his or her duties of office.

(2) Subsection (1) does not apply to

(a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,

(b) compensation authorized by law, or

(c) a lawful contribution made to a member who is a candidate for election to a local government.

(3) A person who contravenes this section is disqualified from continuing to hold office as a council member unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### Disclosure of gifts

**91** (1) This section applies if

(a) a member receives a gift or personal benefit referred to in section 90 (2) (a) that exceeds $250 in value, or

(b) the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds $250.

(2) In the circumstances described in subsection (1), the council member must file with the corporate officer, as soon as reasonably possible, a disclosure statement indicating

(a) the nature of the gift or benefit,

(b) its source including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation,

(c) when it was received, and

(d) the circumstances under which it was given and accepted.

(3) A person who contravenes this section is disqualified from continuing to hold office as a council member unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### Use of insider information

**92** (1) A council member or former council member must not use information or a record that

(a) was obtained in the performance of the member's office, and

(b) is not available to the general public, for the purpose of gaining or furthering a direct or indirect pecuniary interest of the council member or former council member.

(2) A person who contravenes this section is disqualified from holding or continuing to hold office as a council member unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### Restrictions on contracts and benefits

**93** (1) Subject to subsection (2), a council member or former council member must not, directly or indirectly,

(a) enter into a contract, or

(b) accept a benefit

that is awarded, approved or granted by the council.

(2) The restriction in subsection (1) does not apply if one or more of the following applies:

(a) in the case of a former member, 6 months have passed since he or she last held office on the council;

(b) in the case of a benefit, the benefit is specifically authorized by or under this or another Act to be provided to a council member;

(c) the contract or benefit is awarded, approved or granted on conditions that are the same for all contracts similarly awarded or for all persons similarly entitled, as applicable;

(d) the council

(i) considers that the contract or benefit is in the best interests of the municipality, and

(ii) adopts a bylaw to enter into the contract or provide the benefit.

(3) A council member must not knowingly vote to award, approve or grant a contract or benefit to a council member or former council member if this will result in that person contravening subsection (1).

### Court order for person to give up financial gain

**94** (1) If a council member or former council member has

(a) contravened this Division, and

(b) realized financial gain in relation to that contravention,

the municipality or an elector may apply to the Supreme Court for an order under this section.

(2) Within 7 days after the petition commencing an application under this section is filed, it must be served on

(a) the council member or former council member, and

(b) in the case of an application brought by an elector, the municipality.

(3) On an application under this section, the Supreme Court may order the council member or former council member to pay to the municipality an amount equal to all or part of the person's financial gain as specified by the court.

(4) In the case of an application made by an elector, if the court makes an order under subsection (3), the municipality must promptly pay the elector's costs within the meaning of the Rules of Court.

(5) The court may order that costs to be paid under subsection (4) may be recovered by the municipality from any other person as directed by the court in the same manner as a judgment of the Supreme Court.

(6) Except as provided in subsection (4), the costs of an application are in the discretion of the court.

## Division 7 – Disqualification

### Circumstances in which a person is disqualified from office on council

**95** (1) A person elected or appointed to office on a council is disqualified from taking or holding that office if any of the following apply:

(a) the person is disqualified under any of the following:

section 86 *[restrictions on participation if in conflict]*;
section 87 *[restrictions on inside influence]*;
section 88 *[restrictions on outside influence]*;
section 90 *[restrictions on accepting gifts]*;
section 91 *[disclosure of gifts]*;
section 92 *[use of insider information]*;

(b) the person does not make the required oath or affirmation of office within the time established by section 105 (1) *[oath or affirmation of office]*;

(c) the person is absent from council meetings for a period of 60 consecutive days or 4 consecutive regularly scheduled council meetings, whichever is the longer time period, unless the absence is because of illness or injury or is with the leave of the council;

(d) the person votes for a bylaw or resolution authorizing the use of money contrary to section 174 *[liabilities for use of money contrary to Act]*;

(e) the person is disqualified under section 66 (2) *[who may hold elected office]* of the *Local Government Act* or section 38 (2) *[who may hold elected office]* of the *Vancouver Charter*.

(2) A person disqualified under subsection (1) is disqualified from holding office on a local government as follows:

| *applicable provision of subsection* | *period of disqualification* |
|---|---|
| (1) (a) *[conflict]* | until the next general local election; |
| (1) (b) *[failure to take oath]* | until the next general local election; |
| (1) (c) *[unexcused absence]* | until the next general local election; |

| | |
|---|---|
| (1) (d) *[unauthorized use of money]* ...... | for 3 years from the date of the vote to which the disqualification relates; |
| (1) (e) *[election disqualifications]* ......... | in accordance with Part 3 *[Electors and Elections]* of the *Local Government Act.* |

### Application to court for declaration of disqualification

**96** (1) If it appears that a person is disqualified under section 95,

- (a) 10 or more electors of the municipality, or
- (b) subject to subsection (2), the municipality,

may apply to the Supreme Court for an order under this section.

(2) A municipality may only make an application if this is approved by a resolution that

- (a) is adopted by a vote at least 2/3 of all council members, and
- (b) identifies the grounds for disqualification under section 95 which the council considers apply.

(3) Sections 85 *[disclosure of conflict]* and 86 *[restrictions on participation]* do not apply to the council member who is subject to a resolution referred to in subsection (2) of this section in relation to that resolution.

(4) An application under this section may only be made within 45 days after the alleged basis of the disqualification comes to the attention of

- (a) any of the electors bringing the application, in the case of an application under subsection (1) (a), or
- (b) any member of council other than the person alleged to be disqualified, in the case of an application under subsection (1) (b).

(5) Within 7 days after the petition commencing an application under this section is filed, it must be served on

- (a) the person whose right to hold office is being challenged, and
- (b) in the case of an application under subsection (1) (a), the municipality.

(6) On the hearing of the application, the court may declare

- (a) that the person is qualified to hold office,
- (b) that the person is not qualified to hold office, or
- (c) that the person is not qualified to hold office and that the office is vacant.

### Status of person subject to an application

**97** (1) A person who is subject to an application under section 96 and who considers that he or she is qualified to hold office may continue to act in office pending the determination of the Supreme Court respecting the application.

(2) If a person who is declared disqualified to hold office by the Supreme Court appeals the decision, the appeal does not operate as a stay of the declaration and the person is disqualified pending the final determination of the appeal.

(3) If a declaration of disqualification referred to in subsection (2) is overturned on final appeal and the term of office for which the person was elected has not ended,

(a) the person is entitled to take office for the remainder of the term if otherwise qualified, and

(b) for this purpose, any other person elected or appointed to the office since the declaration of disqualification ceases to hold office at the time the person declared qualified takes office.

### Costs of an application

**98** (1) In the case of an application under section 96 made by a group of electors, if the court declares that the person challenged is not qualified to hold office, the municipality must promptly pay the electors' costs within the meaning of the Rules of Court.

(2) The court may order that costs to be paid under subsection (1) may be recovered by the municipality from the person who was declared disqualified or any other person as directed by the court in the same manner as a judgment of the Supreme Court.

(3) Except as provided in subsection (1), the costs of an application are in the discretion of the court.

# PART 5 – MUNICIPAL GOVERNMENT AND PROCEDURES

## Division 1 – Council Roles and Responsibilities

### Council as governing body

**99** (1) The members of a municipal council are the mayor and the councillors.

(2) Despite a change in its membership, the council of a municipality is a continuing body and may complete any proceedings started but not completed before the change.

(3) The powers, duties and functions of a municipality are to be exercised and performed by its council, except as otherwise provided by or under this or another Act, and a council, in exercising or performing its powers, duties and functions, is acting as the governing body of the municipality.

(4) A council has all necessary power to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a council or municipality by an enactment.

### Responsibilities of council members

**100** Every council member has the following responsibilities:

(a) to consider the well-being and interests of the municipality and its community;

(b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;

(c) to participate [illegible] council meetings, committee meetings and meetings of other bodies to which the member is appointed;

(d) to carry out other duties assigned by the council;

(e) to carry out other duties assigned by or under this or any other Act.

### Responsibilities of mayor

**101** (1) The mayor is the head and chief executive officer of the municipality.

(2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:

(a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;

(b) to communicate information to the council;

(c) to preside at council meetings when in attendance;

(d) to direct the management of the policies and programs of the municipality respecting its services and other activities;

(e) to establish standing committees in accordance with section 126;

(f) to suspend municipal officers and employees in accordance with section 136;

(g) to reflect the will of council and to carry out other duties assigned by the council;

(h) to carry out other duties assigned by or under this or any other Act.

### Duty to respect confidentiality

102 A council member or former council member must, unless specifically authorized otherwise by council,

(a) keep in confidence any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required, and

(b) keep in confidence information considered in any part of a council meeting that was closed to the public, until the council discusses or releases the information at a meeting that is open to the public.

### Size of council

103 (1) Unless otherwise provided by a bylaw under this section, the council size for municipalities must be as follows:

(a) for a city or district having a population of more than 50 000, the council is to consist of a mayor and 8 councillors;

(b) for a city or district having a population of 50 000 or less, the council is to consist of a mayor and 6 councillors;

(c) for a town or village, the council is to consist of a mayor and 4 councillors.

(2) A council may, by bylaw, establish the number of council members as a mayor and 4, 6, 8 or 10 councillors.

(3) If a bylaw under subsection (2) would reduce the number of council members, it may only be adopted if it receives the assent of the electors.

(4) A bylaw under subsection (2)

(a) must be made at least one year before the next general local election, and

(b) does not become effective until that general local election.

### Term of office for council members

104 (1) Subject to subsections (2) to (4), the term of office for a council member elected at a general local election

(a) begins on the first council meeting date referred to in section 110 (1) *[council meetings]*, and

(b) ends immediately before that first council meeting date in the year of the next general local election.

(2) A person who has delivered the oath or affirmation of office to the corporate officer in accordance with section 105 (5) takes office

(a) on the date referred to in subsection (1) (a), if delivery to the corporate officer is done before this time, and

(b) otherwise, at the time of delivery.

(3) For the purpose of maintaining continuity in the office of mayor, if the incoming mayor has not taken office on the date referred to in subsection (1) (a), the previous mayor continues to hold office until the successor has taken office.

(4) As a transitional measure for ensuring that there is a quorum of council, if on the date referred to in subsection (1) (a), the number of incoming council members who have taken office is less than a quorum, the previous councillors continue in office until a quorum of incoming council members has taken office.

### Oath or affirmation of office

**105** (1) A person elected or appointed to office on a council must make an oath or solemn affirmation of office within the following applicable time limit:

(a) in the case of a person elected by acclamation, within 50 days after the date set for general voting day had an election by voting been required;

(b) in the case of a person elected by voting, within 45 days after the declaration of the results of the election;

(c) in the case of a person appointed to office, within 45 days after the effective date of the appointment.

(2) A council may, by bylaw, establish the oath or solemn affirmation of office for the purposes of this section, which may be different for the office of mayor and the office of councillor.

(3) If no bylaw under subsection (2) applies, the oath or solemn affirmation of office to be made is that prescribed by regulation.

(4) The oath or solemn affirmation of office must be made before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace, a commissioner for taking affidavits for British Columbia, the corporate officer or the chief election officer.

(5) Before a person takes office as a council member, the person must deliver the completed oath or affirmation, or a certificate of it, to the corporate officer.

### Resignation from office

**106** (1) A council member may only resign his or her office by delivering a written resignation to the council at a council meeting or to the corporate officer at any time.

(2) A resignation is effective

(a) from the date specified in the resignation, or

(b) if no date is specified, from the time the resignation is delivered to the council or corporate officer, as applicable.

(3) Once a resignation has been delivered under subsection (1), it may not be revoked.

## Division 2 – Council Proceedings

### Exercise of powers by bylaw or resolution

**107** (1) A council may only exercise its authority by resolution or bylaw.

(2) If an enactment provides that a council is required or empowered to exercise a power by bylaw, that power may only be exercised by bylaw.

### General voting rules

**108** (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.

(2) Each council member has one vote on any question.

(3) Each council member present at the time of a vote must vote on the matter.

(4) If a council member does not indicate how he or she votes, the member is deemed to have voted in the affirmative.

(5) If the votes of the members present at a council meeting at the time of the vote are equal for and against a motion, the motion is defeated.

(6) A requirement under an enactment for an affirmative vote of a specified portion of all members of a council means an affirmative vote of that portion of the number of members of which the council consists under section 103 *[size of council]*.

(7) The voting rules established by this section also apply to council committees.

### Procedure bylaws

**109** (1) A council must, by bylaw, establish the general procedures to be followed by council and council committees in conducting their business.

(2) Without limiting the matters that may be dealt with under this section, a council must, by bylaw, do the following:

- (a) establish rules of procedure for council meetings, including the manner by which resolutions may be passed and the manner by which bylaws may be adopted in accordance with Division 3 *[Bylaw Procedures]*;
- (b) establish rules of procedure for meetings of council committees;
- (c) provide for the taking of minutes of council meetings and council committee meetings, including requiring certification of those minutes;
- (d) require advance public notice respecting the time, place and date of council committee meetings and establish the procedures for giving that notice;
- (e) identify places that are to be public notice posting places for the purposes of section 79 *[public notice]*;

(f) establish the procedure for designating a person under section 115 *[designation of member to act in place of the mayor]*;

(g) establish the first council meeting date referred to in section 110 (1) *[council meetings]* as a day in the first 10 days of December following a general local election.

(3) A bylaw under this section must not be amended, or repealed and substituted, unless the council first gives notice in accordance with section 79 *[public notice]* describing the proposed changes in general terms.

### Council meetings

**110** (1) The first council meeting following a general local election must be on the day set by procedure bylaw under section 109 (2) (g).

(2) If a quorum of council members elected at the general local election has not taken office by the time referred to in subsection (1), the first council meeting must be called by the corporate officer and held as soon as reasonably possible after a quorum has taken office.

(3) After the first meeting, a council must meet

(a) regularly in accordance with the applicable procedure bylaw, and

(b) as it decides and as provided in this Act.

(4) A special council meeting is a council meeting other than the first meeting, a regular meeting or an adjourned meeting.

### Calling of special council meetings

**111** (1) The mayor may call a special council meeting in his or her discretion.

(2) Two or more council members may, in writing, request that the mayor call a special council meeting.

(3) Two or more council members may themselves call a special council meeting if,

(a) within 24 hours after receiving a request under subsection (2), no arrangements are made under subsection (1) for a special council meeting to be held within the next 7 days, or

(b) both the mayor and the person designated under section 115 *[designation of member to act in place of mayor]* are absent or otherwise unable to act.

(4) If a special council meeting is called under subsection (3), the council members calling the meeting or the corporate officer must sign the notice under section 112 *[notice of council meetings]* in place of the mayor.

### Notice of council meetings

**112** (1) A council must

(a) make available to the public a schedule of the day, hour and place of regular council meetings, and

(b) give notice of the availability of the schedule in accordance with section 79 *[public notice]* at least once a year.

(2) Subject to subsection (4), notice of a special council meeting must be given at least 24 hours before the time of meeting, by

(a) posting a copy of the notice at the regular council meeting place,

(b) posting a copy of the notice at the public notice posting places, and

(c) leaving one copy for each council member at the place to which the member has directed notices to be sent.

(3) The notice under subsection (2) must include the day, hour and place of the meeting, describe in general terms the purpose of meeting and be signed by the mayor or the corporate officer.

(4) Notice of a special council meeting may be waived by unanimous vote of all council members.

### Electronic meetings and participation by members

**113** (1) If this is authorized by procedure bylaw and the requirements of subsection (2) are met,

(a) a special council meeting may be conducted by means of electronic or other communication facilities, or

(b) a council member who is unable to attend at a council meeting or a council committee meeting may participate in the meeting by means of electronic or other communication facilities.

(2) The following rules apply in relation to a meeting referred to in subsection (1):

(a) the meeting must be conducted in accordance with the applicable procedure bylaw;

(b) the facilities must enable the meeting's participants to hear, or watch and hear, each other;

(c) for a special council meeting referred to in subsection (1) (a),

(i) the notice under section 112 (2) *[notice of special meetings]* must include notice of the way in which the meeting is to be conducted and the place where the public may attend to hear the proceedings that are open to the public, and

(ii) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place;

(d) for a meeting referred to in subsection (1) (b), except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the participation of the member.

(3) Council members participating in a meeting conducted in accordance with this section are deemed to be present at the meeting.

### Quorum for conducting business

**114** (1) Subject to an order under subsection (3) or (4), the quorum is a majority of the number of members of the council provided for under section 103 *[size of council]*.

(2) The acts done by a quorum of council are not invalid by reason only that the council is not at the time composed of the number of council members required under this Act.

(3) If the number of members of a council is reduced to less than a quorum, the minister may either

(a) order that the remaining members of the council constitute a quorum until persons are elected and take office to fill the vacancies, or

(b) appoint qualified persons to fill the vacancies until persons are elected and take office to fill them.

(4) The municipality may apply to the Supreme Court for an order under subsection (5) if, as a result of section 85 *[disclosure of conflict]*, the number of council members who may discuss and vote on a matter falls below

(a) the quorum for the council, or

(b) the number of council members required to adopt the applicable bylaw or resolution.

(5) On an application under subsection (4), the court may

(a) order that all or specified council members may discuss and vote on the matter, despite sections 85 *[disclosure of conflict]* and 86 *[restrictions on participation]*, and

(b) make the authority under paragraph (a) subject to any conditions and directions the court considers appropriate.

(6) An application under subsection (4) may be made without notice to any other person.

### Designation of person to act in place of mayor

**115** (1) The council must, in accordance with its applicable procedure bylaw, provide for the designation of a councillor as the member responsible for acting in the place of the mayor when the mayor is absent or otherwise unable to act.

(2) If both the mayor and member designated under subsection (1) are absent from a council meeting, the members present must choose a member to preside.

(3) The person designated under subsection (1) or the member chosen under subsection (2) has the same powers and duties as the mayor in relation to the applicable matter.

### Mayor may require council reconsideration of a matter

**116** (1) Without limiting the authority of a council to reconsider a matter, the mayor may require the council to reconsider and vote again on a matter that was the subject of a vote.

(2) As restrictions on the authority under subsection (1),

- (a) the mayor may only initiate a reconsideration under this section
  - (i) at the same council meeting as the vote took place, or
  - (ii) within the 30 days following that meeting, and
- (b) a matter may not be reconsidered under this section if
  - (i) it has had the approval of the electors or the assent of the electors, or
  - (ii) there has already been a reconsideration under this section in relation to the matter.

(3) On a reconsideration under this section, the council

- (a) must deal with the matter as soon as convenient, and
- (b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.

(4) If the original decision was the adoption of a bylaw or resolution and that decision is rejected on reconsideration, the bylaw or resolution is of no effect and is deemed to be repealed.

### Expulsion from council meeting

**117** (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.

(2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

### Authority to compel witnesses

**118** (1) A council or council committee

- (a) has power, under the signature of the mayor, to summon witnesses for examination on oath respecting matters related to the administration of the municipality, and
- (b) has the same power to enforce the attendance of witnesses and compel them to give evidence as is vested in a court of law in civil cases.

(2) A member of council or the corporate officer may administer the oath to or take the solemn declaration of a witness.

(3) A witness may be examined, cross examined and re-examined according to the rules and practice of the Supreme Court in civil cases.

## Division 3 – Bylaw Procedures

### Requirements for passing bylaws

**119** (1) Before a bylaw is adopted by a council, it must be given 3 readings by the council.

(2) Subject to this section and the applicable procedure bylaw, a bylaw may be given up to 3 readings at one meeting of council.

(3) There must be at least one day between the third reading and the adoption of a bylaw.

(4) If this or another Act requires that a bylaw receive

(a) approval of the Lieutenant Governor in Council, a minister or the inspector, or

(b) approval of the electors or assent of the electors,

the approval or assent must be obtained after the bylaw has been given third reading and before it is adopted.

(5) If this or another Act requires that a bylaw receive both approvals referred to in subsection (4), the approval referred to in subsection (4) (a) must be obtained before the bylaw is submitted for the approval or assent referred to in subsection (4) (b).

(6) Once a bylaw is adopted,

(a) the council member presiding at the meeting at which it was adopted, and

(b) the corporate officer

must sign the bylaw.

### When a bylaw comes into force

**120** A bylaw comes into force on the later of

(a) the date it is adopted by council, and

(b) a date set by the bylaw.

### Power to amend or repeal

**121** (1) Unless otherwise provided,

(a) the power to adopt a bylaw under this or any other Act includes the power to repeal or amend the original bylaw,

(b) the included power to amend or repeal must be exercised by bylaw and is subject to the same approval and other requirements, if any, as the power to adopt the original bylaw, and

(c) a bylaw may include provisions that, at a future date set by the bylaw, amend or repeal the bylaw.

(2) A bylaw that requires approval of the electors or assent of the electors may be amended or repealed without that approval or assent if the minister approves.

### Municipal codes and other general bylaws

**122** (1) Unless otherwise provided, a council may, by a single bylaw, exercise any number of its powers to act by bylaw.

(2) A bylaw under subsection (1), or an equivalent bylaw created by consolidation under section 123 or revision under section 124, is subject to all requirements that would apply to the exercise of the powers by separate bylaws.

### Consolidation of bylaws

**123** (1) A council may, by bylaw, authorize the corporate officer to consolidate one or more of the bylaws of the municipality.

(2) In consolidating a bylaw, the corporate officer must

(a) incorporate in it all amendments that have been made to the bylaw, and

(b) omit any provision that has been repealed or that has expired.

(3) A printed document purporting

(a) to be a copy of a bylaw consolidated under this section, and

(b) to be printed by authority of the corporate officer

is proof, in the absence of evidence to the contrary, of the original bylaw, of all bylaws amending it and of the fact of passage of the original and all amending bylaws.

### Revision of bylaws

**124** (1) The Lieutenant Governor in Council may, by regulation, provide municipalities with authority to revise their bylaws that is equivalent to the authority provided in relation to statutes under the *Statute Revision Act*, including regulations establishing the legal effect of the revised bylaws and providing for the correction of revision errors.

(2) A revised bylaw adopted in accordance with a regulation under this section is deemed to be a bylaw that has been adopted as if all requirements respecting the approval and adoption of its provisions have been met.

### Evidence of bylaw

**125** A printed document purporting

(a) to be a copy of a municipal bylaw, and

(b) to be printed by authority of the council of the municipality

is proof, in the absence of evidence to the contrary, of the bylaw and of the fact of its adoption.

## Division 4 – Committees, Commissions and Other Bodies

### Standing committees of council

**126** (1) The mayor must establish standing committees for matters the mayor considers would be better dealt with by committee and must appoint persons to those committees.

(2) At least half of the members of a standing committee must be council members.

(3) Subject to subsection (2), persons who are not council members may be appointed to a standing committee.

### Select committees of council

**127** (1) A council may establish and appoint a select committee to consider or inquire into any matter and to report its findings and opinion to the council.

(2) At least one member of a select committee must be a council member.

(3) Subject to subsection (2), persons who are not council members may be appointed to a select committee.

### Municipal commissions

**128** (1) A council may establish and appoint a commission to do one or more of the following:

(a) operate services;

(b) undertake operation and enforcement in relation to the council's exercise of its regulatory authority;

(c) manage property and licences held by the municipality.

(2) If a council adopts a bylaw under this section to establish an athletic commission consisting of at least 3 members, in addition to any delegation under section 139, the council may, by bylaw, do one or more of the following:

(a) authorize the commission to make rules regulating professional boxing, wrestling and similar activities, contests and exhibitions;

(b) in relation to breaches of the bylaw or rules made under it, authorize the commission to impose reasonable fines for misconduct and to prohibit those participants or persons from taking part in contests or exhibitions in the municipality for reasonable periods;

(c) whether or not a penalty has been imposed, authorize the commission to restrain, by legal action brought by the commission in its name, a person conducting a contest or exhibition or participating in it without a required permit, and for these purposes section 263 (3) and (4) *[actions by municipality]* applies;

(d) provide that a decision of the commission under this section is subject to appeal to the council.

(3) The authority to regulate under subsection (2) (a) is authority equivalent to the authority of a council.

### Authority to rescind appointment

**129** The authority to appoint under this Division includes the authority to rescind the appointment at any time and appoint another person in place of the person previously appointed.

### Application of procedure rules to other bodies

**130** (1) Subject to subsection (2), the rules established by procedure bylaw respecting the taking of minutes at council committee meetings apply to meetings of bodies referred to in section 78 (b) to (g) *[application of open meeting rules to other bodies]*.

(2) The rules referred to in subsection (1) do not apply

(a) if a procedure bylaw provides for other procedures for the taking of minutes by one or more bodies referred to in that subsection, or

(b) if the body is exempted by regulation, or

(c) to the extent they are modified by regulation.

## Division 5 – Officers and Employees

### Officer positions

**131** A council

(a) must, by bylaw, establish officer positions in relation to the duties under sections 133 *[corporate administration]* and 134 *[financial administration]*,

(b) may, by bylaw, establish other officer positions, and

(c) may, by bylaw or resolution, assign powers, duties and functions to those officer positions.

### Chief administrative officer

**132** A bylaw under section 131 may establish the position of chief administrative officer of the municipality, whose powers, duties and functions include the following:

(a) overall management of the operations of the municipality;

(b) ensuring that the policies, programs and other directions of the council are implemented;

(c) advising and informing the council on the operation and affairs of the municipality.

### Corporate officer

**133** One of the municipal officer positions must be assigned the responsibility of corporate administration, which includes the following powers, duties and functions:

(a) ensuring that accurate minutes of the meetings of the council and council committees are prepared and that the minutes, bylaws and other records of the business of the council and council committees are maintained and kept safe;

(b) ensuring that access is provided to records of the council and council committees, as required by law or authorized by the council;

(c) administering oaths and taking affirmations, affidavits and declarations required to be taken under this Act or any other Act relating to municipalities;

(d) certifying copies of bylaws and other documents, as required or requested;

(e) accepting, on behalf of the council or municipality, notices and documents that are required or permitted to be given to, served on, filed with or otherwise provided to the council or municipality;

(f) keeping the corporate seal, if any, and having it affixed to documents as required.

### Financial officer

**134** One of the municipal officer positions must be assigned the responsibility of financial administration, which includes the following powers, duties and functions:

(a) receiving all money paid to the municipality;

(b) ensuring the keeping of all funds and securities of the municipality;

(c) investing municipal funds, until required, in authorized investments;

(d) expending municipal money in the manner authorized by the council;

(e) ensuring that accurate records and full accounts of the financial affairs of the municipality are prepared, maintained and kept safe;

(f) exercising control and supervision over all other financial affairs of the municipality.

### General employment matters

**135** In the event of a conflict between terms and conditions of employment established by municipal bylaw, resolution or policy and those established by a contract of employment or collective agreement, the contract or agreement prevails.

### Suspension of officers and employees

**136** (1) The mayor must suspend a municipal officer or employee if the mayor considers this necessary.

(2) A suspension under subsection (1) must be reported to the council at its next meeting, and the council may

(a) reinstate the officer or employee,

(b) confirm the suspension,

(c) confirm and extend the suspension, or

(d) dismiss the officer or employee.

### Termination of officers

**137** Subject to a contract of employment and subject to providing the officer an opportunity to be heard, the appointment of a municipal officer may be terminated by the council as follows:

(a) on reasonable notice, if the termination is approved by a vote of at least 2/3 of all council members;

(b) without notice, for cause, if the termination is approved by a majority of the votes cast.

### Prohibition against interfering with municipal officers and employees

**138** A person must not interfere with, hinder or obstruct municipal officers or employees in the exercise of their powers or the performance of their duties or functions.

## Division 6 – Delegation

### Delegation of council authority

**139** (1) A council may, by bylaw, delegate its powers, duties and functions, including those specifically established by an enactment, to the extent provided, to

(a) a council member or council committee,

(b) an officer or employee of the municipality, or

(c) another body established by the council.

(2) As exceptions, a council may not delegate the following:

(a) the making of a bylaw;

(b) a power or duty exercisable only by bylaw;

(c) a power or duty established by this or any other Act that the council give its approval or consent to, recommendations on, or acceptance of an action, decision or other matter;

(d) a power or duty established by an enactment that the council hear an appeal or reconsider an action, decision or other matter;

(e) a power or duty to terminate the appointment of an officer.

(3) Despite subsection (1), a council may only delegate a power or duty to appoint or suspend an officer to its chief administrative officer.

(4) A council may not delegate under subsection (1) to a corporation.

### Special rules respecting delegation of hearings

**140** (1) This section applies to the delegation of council hearings, required by law or authorized by an enactment, in relation to a bylaw, action or other matter, other than hearings referred to in section 139 (2) (d).

(2) The following rules apply in relation to a delegation under subsection (1):

(a) as an exception to section 139 (1) *[delegation of council authority]*, the delegation may be made by a bylaw or resolution passed by a majority of votes cast;

(b) the delegation may be made specifically, by class of hearings, or generally;

(c) the delegation may only be made to one or more council members;

(d) if a council decision is to be made following a delegated hearing, the authority to make the decision may only be delegated to the council members to whom the hearing is delegated;

(e) if a council decision referred to in paragraph (d) is not delegated under that provision, the council must not make the decision until the applicable council members report to the council the views expressed at the hearing.

(3) For certainty, if a delegation has been made in relation to hearings, the council may exercise its authority under this section to change that delegation to a different delegation in relation to a specific hearing.

### Reconsideration of delegate's decisions

**141** (1) A council may, by bylaw, establish a right to have decisions delegated under this Division reconsidered by council.

(2) If

(a) a council delegates a power to make a decision, and

(b) in relation to that delegation, a provision of this or another Act, or a bylaw under subsection (1), establishes a right to have a delegated decision reconsidered by the council,

the council must, by bylaw, establish procedures for such a reconsideration, including how a person may apply for the reconsideration.

(3) In undertaking a reconsideration referred to in subsection (2), a council has the same authority as that conferred on the delegate.

(4) If there is a right of reconsideration, the person making the decision must advise the person subject to the decision of this right.

## Division 7 – Other Matters

### Municipal days of recognition

**142** A council may declare, or the mayor may proclaim, a day of recognition that is to be observed in the municipality.

### Freedom of the municipality

**143** (1) A council may, by unanimous vote, confer freedom of the municipality on

(a) a distinguished person, or

(b) a distinguished unit of the armed forces of Canada or another nation.

(2) Unless the council revokes the honour, a person given freedom of the municipality or the commander of the armed forces unit, as applicable,

(a) is deemed to be an elector of the municipality and is eligible to be registered as such and to vote in an election for mayor or councillor, and

(b) despite any other enactment, if the person is a Canadian citizen, is deemed to be qualified to be nominated, be elected and hold office on the council.

### Notice to municipality

**144** If an enactment requires or permits

(a) notice to be given to a council or a municipality,

(b) a document to be served on a council or a municipality,

(c) a document to be filed with a council or a municipality, or

(d) a document to be delivered, sent, submitted or otherwise provided to a council or a municipality,

the notice, service, filing or other provision is effected if the notice or document is, as applicable, given to, served on, filed with or otherwise provided to the corporate officer.

### Notice by municipality

**145** (1) Subject to subsection (2), where this or another Act requires a municipality, a council or a municipal officer or employee to give notice or to mail, send or deliver a notice, the obligation is satisfied if a reasonable effort was made to mail or otherwise deliver the notice.

(2) Where this or another Act requires a municipality, a council or a municipal officer or employee to serve a notice or other document on a person, that obligation may be met by serving the notice in accordance with an order under subsection (3).

(3) On application, the Supreme Court may order that a document referred to in subsection (2) may be served by substituted service in accordance with the order.

### Certified copies of municipal records

**146** (1) The corporate officer must provide a copy of all or part of a record of the municipality, certified by the corporate officer, if

(a) the person requesting the copy pays the fee set by the council, and

(b) the person is entitled under the *Freedom of Information and Protection of Privacy Act*, or is otherwise permitted, to inspect the record or part for which the copy is requested.

(2) A copy of a bylaw, resolution or record of a municipality certified by the corporate officer as a true copy of the original is proof, in the absence of evidence to the contrary, of the bylaw, resolution or record.

(3) The certificate of the corporate officer is admissible in evidence without proof of the appointment or signature of the person who signed the certificate.

(4) When a copy of a bylaw or resolution certified in accordance with this section is filed with the clerk of a court, the court must take judicial notice of it when an action is brought in the court.

# PART 6 – FINANCIAL MANAGEMENT

## Division 1 – Financial Planning and Accountability

### Fiscal year

**147** The fiscal year for a municipality is the calendar year.

### Financial plan

**148** (1) A municipality must have a financial plan that is adopted annually, by bylaw, before the annual property tax bylaw is adopted.

(2) For certainty, the financial plan may be amended by bylaw at any time.

(3) The planning period for a financial plan is 5 years, that period being the year in which the plan is specified to come into force and the following 4 years.

(4) The financial plan must set out the following for each year of the planning period:

- (a) the proposed expenditures by the municipality;
- (b) the proposed funding sources;
- (c) the proposed transfers to or between funds.

(5) The total of the proposed expenditures and transfers to other funds for a year must not exceed the total of the proposed funding sources and transfers from other funds for the year.

(6) The proposed expenditures must set out separate amounts for each of the following as applicable:

- (a) the amount required to pay interest and principal on municipal debt;
- (b) the amount required for capital purposes;
- (c) the amount required for a deficiency referred to in subsection (9);
- (d) the amount required for other municipal purposes.

(7) The proposed funding sources must set out separate amounts for each of the following as applicable:

- (a) revenue from property value taxes;
- (b) revenue from parcel taxes;
- (c) revenue from fees;
- (d) revenue from other sources;
- (e) proceeds from borrowing, other than borrowing under section 160 *[revenue anticipation borrowing]*.

(8) The proposed transfers to or between funds must set out separate amounts for

- (a) each reserve fund under Division 4, and
- (b) accumulated surplus.

(9) If actual expenditures and transfers to other funds for a year exceed actual revenues and transfers from other funds for the year, the resulting deficiency must be included in the next year's financial plan as an expenditure in that year.

### Public process for development of financial plan

**149** A council must undertake a process of public consultation regarding the proposed financial plan before it is adopted.

### Annual financial statements

**150** (1) Municipal financial statements for a fiscal year must be

(a) prepared by the financial officer, and

(b) presented to council for its acceptance.

(2) Subject to subsection (3), the financial statements must be prepared in accordance with generally accepted accounting principles for local governments.

(3) The inspector may require or authorize, generally or for a specified municipality, that the financial statements vary from or include additional information to the requirements of subsection (2).

(4) By May 15 in each year, a municipality must submit to the inspector its audited financial statements for the preceding year and any other financial information requested by the inspector.

(5) In addition to any requirement under subsection (4), the financial officer must compile and supply information on the financial affairs of the municipality requested by the inspector.

### Reporting of council remuneration and expenses

**151** At least once a year, a council must have prepared a report separately listing the following for each council member by name:

(a) the total amount of remuneration paid to the council member for discharge of the duties of office, including any amount specified as an expense allowance;

(b) the total amount of expense payments for the council member made to the council member as reimbursement for expenses incurred by the council member or as an allowance that is not reported under paragraph (a);

(c) the total amount of any benefits, including insurance policies and policies for medical or dental services, provided to the council member or the member's dependants.

## Division 2 – Audit

### Municipal auditor

**152** (1) A council must appoint an auditor for the municipality.

(2) A municipal auditor must be a person who is qualified to be the auditor of a reporting company under section 180 of the *Company Act*.

(3) A municipal auditor has the power and duty to conduct the examinations necessary to prepare the reports required under this Division and, for these purposes, has the same authority in relation to the municipality as the auditor of a company under the *Company Act*.

(4) A municipal auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information was obtained.

### Audit committee

**153** (1) As a limitation on section 139 *[delegation of council authority]*, a council may only delegate its powers, duties and functions under this Division to a committee comprised of council members.

(2) Reports submitted by the municipal auditor to a committee under this section are deemed to have been submitted to council.

### Auditor's reports

**154** (1) The municipal auditor must report to the council on the annual financial statements of the municipality.

(2) The report under subsection (1) must be in accordance with the form and the reporting standards recommended by the Canadian Institute of Chartered Accountants.

(3) In addition to the report under subsection (1),

- (a) the council or the inspector may require further reports from the municipal auditor, and
- (b) the municipal auditor may, on the auditor's own initiative, make further reports.

(4) On request by the inspector, the municipal auditor must forward to the inspector copies of

- (a) reports under subsections (1) and (3), and
- (b) written communications in relation to those reports from the auditor to the council, a council committee or a municipal officer.

### Complaints to council or auditor about financial affairs

**155** (1) A person may complain in writing to the council or to the municipal auditor, if the person considers that

(a) a disbursement, expenditure, liability or other transaction is not authorized by or under this or another Act, or

(b) there has been a theft, misuse or other defalcation or irregularity in the funds, accounts, assets, liabilities and financial obligations of the municipality.

(2) If a complaint is made under subsection (1) to the council, the council must give notice of the matter to the municipal auditor.

(3) If a complaint is made under subsection (1) to the municipal auditor, the auditor must give notice of the matter to the council and must report to the council on the subject matter of the complaint.

## Division 3 – Expenditures, Liabilities and Investments

### Limit on expenditures

**156** (1) A municipality must not make an expenditure other than one authorized under subsection (2) or (3).

(2) A municipality may make an expenditure that is included for that year in its financial plan, so long as the expenditure is not expressly prohibited by this or another Act.

(3) A municipality may make an expenditure for an emergency that was not contemplated for that year in its financial plan, so long as the expenditure is not expressly prohibited by this or another Act.

(4) The following apply in relation to the authority under subsection (3):

(a) the council must establish procedures to

(i) authorize expenditures under that subsection, and

(ii) provide for such expenditures to be reported to the council at a regular meeting;

(b) if an expenditure is made under that subsection, as soon as practicable, the council must amend the financial plan to include the expenditure and the funding source for the expenditure;

(c) the authority does not include the authority to borrow for the purpose of making the expenditure.

### Limit on borrowing and other liabilities

**157** (1) A municipality may only incur a liability as expressly authorized by or under this or another Act.

(2) Except as permitted under subsection (4), a municipality must not incur a liability that causes the aggregate liabilities for all purposes to exceed the total of

(a) 20% of the current value, as shown on the most recent audited financial statements, of the tangible capital assets of the municipality, and

(b) 20% of the average of the converted value of land and improvements in the municipality for the current year and the 2 immediately preceding years.

(3) The following are to be excluded in determining the aggregate liabilities referred to in subsection (2):

(a) liabilities under section 159 *[liabilities imposed under prescribed enactments]*;

(b) debt under section 160 *[revenue anticipation borrowing]*;

(c) debt of another public authority for which the municipality is jointly and severally liable under this or another Act.

(4) With the approval of the inspector, the aggregate liabilities of a municipality may exceed the limit under subsection (2).

(5) Except for borrowing under section 160 *[revenue anticipation borrowing]*, a municipality must not incur a liability for which expenditures are required during the planning period for its financial plan, unless those expenditures are included for the applicable year in the financial plan.

**See Part 6 of the accompanying paper for discussion of continuing work on financial liability limits and procedures.**

### Liabilities under agreements

**158** (1) A council may, under an agreement, incur a liability if

(a) the liability is not a debenture debt, and

(b) the period of the liability is not longer than the reasonable life expectancy of the activity, work or service under the agreement.

(2) Subject to subsection (4), if an agreement under subsection (1) is

(a) for more than 5 years, or

(b) for a period that could exceed 5 years by exercising rights of renewal or extension,

the council may only incur the liability with the approval of the electors.

(3) The matter put before the electors under subsection (2) must identify the other parties to the agreement and the nature, term and amount of the liability.

(4) Approval of the electors is not required under subsection (2) for a liability to be incurred as follows:

(a) under an employment contract or collective agreement;

(b) for the supply of materials, equipment or services under an agreement referred to in section 3 of the *Police Act*;

(c) in prescribed circumstances or in relation to a prescribed agreement or class of agreement, subject to any conditions established by regulation.

### Liabilities imposed under prescribed enactments

**159** (1) A municipality may incur a liability that is within a class prescribed under this section.

(2) The authority to incur a liability under this section is not authority to borrow for the purposes of the liability.

(3) The Lieutenant Governor in Council may make regulations prescribing classes of liability that are imposed by or under an enactment as liabilities to which this section applies.

### Revenue anticipation borrowing

**160** (1) A council may, by bylaw, provide for the borrowing of money that may be necessary to

- (a) meet current lawful expenditures, and
- (b) pay amounts required to meet the municipality's taxing obligations in relation to another local government or other public body.

(2) The debt outstanding under this section must not exceed the total of

- (a) the unpaid taxes for all purposes imposed during the current year, and
- (b) the money remaining due from other governments.

(3) Before the adoption of the annual property tax bylaw in any year, the taxes in that year are deemed to be 75% of all property taxes imposed for all purposes in the preceding year.

(4) When collected, revenue from property value taxes must be used as necessary to repay money borrowed under this section.

### Short term capital borrowing

**161** (1) A council may, by bylaw adopted with the approval of the inspector, contract a debt for any purpose of a capital nature.

(2) A bylaw and the debt under this section must comply with the following:

- (a) the debt must not cause the aggregate liabilities under this section to exceed the amount equal to $50 multiplied by the municipal population;
- (b) the debt and securities for it must be payable no later than the lesser of
  - (i) 5 years from the date on which the securities were issued, and
  - (ii) the reasonable life expectancy of the capital asset for which the debt is contracted;
- (c) the bylaw must set out
  - (i) the amount of the debt intended to be incurred, and
  - (ii) in brief and general terms, the purpose for which the debt is to be incurred.

## Long term borrowing by loan authorization bylaw

**162** (1) A council may, by a loan authorization bylaw adopted with the approval of the inspector, incur a liability by borrowing for one or more of the following:

(a) any purpose of a capital nature;

(b) lending to any person or public authority under an agreement;

(c) guaranteeing repayment of the borrowing, or providing security for the borrowing, of a person or public authority, if this assistance is provided under an agreement with the person or public authority;

(d) complying with an order or requirement to pay money into the Supreme Court as security

(i) for payment of a judgment or other debt,

(ii) for damages or costs, or

(iii) for the costs of an appeal from the decision of a court or an arbitrator;

(e) satisfying a judgment or other order of a court against the municipality;

(f) satisfying an award resulting from an arbitrator's determination of liability or quantum of damages against the municipality, including orders of the arbitrator related to that determination;

(g) paying compensation in respect of property expropriated or injured or carrying out works referred to in section 32 (3) *[entry on land to mitigate damage]*.

(2) A loan authorization bylaw must set out the following:

(a) the total amount proposed to be borrowed under the bylaw;

(b) in brief and general terms, each of the purposes for which the debt is to be incurred;

(c) the amount allocated by the bylaw to each of the purposes for which the debt is to be incurred;

(d) the maximum term for which the debentures may be issued.

(3) A loan authorization bylaw may not be included as part of a general bylaw.

(4) The authority to borrow under a loan authorization bylaw ends,

(a) in the case of a loan authorization bylaw under subsection (1) (b) or (c), at the end of the term of the agreement required by that subsection, and

(b) in other cases, 5 years from the date of adoption of the bylaw,

for any part of the amount authorized by the bylaw that has not already been used to secure borrowing under section 164 *[temporary borrowing under loan authorization bylaw]* or included under a security issuing bylaw.

(5) The maximum term of a debt that may be authorized by a loan authorization bylaw is as follows:

(a) in the case of a bylaw under subsection (1) (a), the lesser of

(i) 30 years, and

(ii) the reasonable life expectancy of the capital asset for which the debt is contracted;

(b) in the case of a loan authorization bylaw under subsection (1) (b) or (c), the remaining term of the agreement under which the assistance is provided;

(c) in all other cases, 30 years.

### Elector approval required for some long term borrowings

**163** (1) Subject to subsection (2), a loan authorization bylaw may only be adopted with the approval of the electors.

(2) Approval of the electors is not required for the following:

(a) money borrowed for a purpose referred to in section 162 (1) (d) to (g) *[loan authorization bylaws for court, arbitration and expropriation requirements]*;

(b) money borrowed for works required to be carried out under an order of the Inspector of Dikes, an order under section 32 of the *Waste Management Act* or an order of the minister responsible or the Lieutenant Governor in Council under the *Environment Management Act*;

(c) money borrowed for a prescribed purpose or in prescribed circumstances, subject to any conditions established by regulation.

(3) With the approval of the inspector, a loan authorization bylaw may be amended or repealed without the approval of the electors.

### Temporary borrowing under loan authorization bylaws

**164** (1) A council that has adopted a loan authorization bylaw may, by bylaw, temporarily borrow money not exceeding the difference between the total amount authorized by the loan authorization bylaw and the amount already borrowed in relation to that bylaw.

(2) To the extent necessary, the proceeds of the borrowing under a security issuing bylaw must be used to repay the money temporarily borrowed.

### Security issuing bylaws

**165** (1) A council may, by a security issuing bylaw adopted with the approval of the inspector, provide for the issue of debentures or other evidence of debt for all or part of the debt authorized by one or more loan authorization bylaws.

(2) A security issuing bylaw must specify the following:

(a) the loan authorization bylaws that authorize the borrowing;

(b) the amount of borrowing authorized by each loan authorization bylaw;

(c) the amount already borrowed under each loan authorization bylaw;

(d) the amount remaining to be borrowed under each loan authorization bylaw;

(e) the amount authorized by the security issuing bylaw to be issued under each loan authorization bylaw;

(f) the term of the debt.

(3) The proceeds of the borrowing under a security issuing bylaw must be allotted proportionately for the purposes of each loan authorization bylaw referred to in subsection (2) (a).

(4) A security issuing bylaw must not be adopted

(a) while any proceeding is pending in which the validity of a loan authorization bylaw referred to in subsection (2) (a) is called into question or by which it is sought to be set aside, or

(b) until the time for giving notice of intention to apply to set aside the loan authorization bylaw expires.

### Regional district financing of municipal undertaking

**166** (1) Except as permitted by the *Municipal Finance Authority Act*, a municipality must not adopt a security issuing bylaw unless the financing is to be undertaken under section 835 *[financing municipal undertakings]* of the *Local Government Act* through the Municipal Finance Authority of British Columbia.

(2) In relation to regional district financing under section 835 of the *Local Government Act* for a municipality, the security issuing bylaw of the municipality is the regional district's authority to proceed under that section and must not be amended or repealed without the consent of the board.

### Appeal from inspector's decision regarding borrowing bylaws

**167** (1) If the inspector refuses to approve a loan authorization bylaw or a security issuing bylaw, the municipality may appeal to the minister.

(2) On an appeal under subsection (1), the minister must hear and determine the matter, and may confirm or rescind the decision of the inspector.

(3) The determination on the appeal is conclusive and binding on all parties, including the inspector.

### Self insurance

**168** (1) A municipality may only enter into a scheme of self insurance protection in accordance with this section.

(2) A municipality may, with another municipality or with a regional district or improvement district,

(a) enter into a scheme of self insurance protection under section 187 of the *Financial Institutions Act* or under the *Insurance (Captive Company) Act*, or

(b) with the consent of the Superintendent of Financial Institutions, enter into a joint scheme of self insurance protection.

### Investment of municipal funds

**169** Money held by a municipality that is not immediately required may only be invested or reinvested in one or more of the following:

- (a) securities of the Municipal Finance Authority;
- (b) pooled investment funds under section 16 of the *Municipal Finance Authority Act*;
- (c) securities of Canada or of a province;
- (d) securities guaranteed for principal and interest by Canada or by a province;
- (e) securities of a municipality, regional district or greater board;
- (f) investments guaranteed by a chartered bank;
- (g) deposits in a savings institution, or non-equity or membership shares of a credit union;
- (h) other investments specifically authorized under this or another Act.

### Ownership of corporations

**170** (1) A municipality may only

- (a) incorporate a corporation other than a society, or
- (b) acquire shares in a corporation

with the approval of the inspector or as authorized by regulation.

(2) An incorporation or acquisition under subsection (1) applies as an exception to the restriction under section 169 *[investment of municipal funds]*.

## Division 4 – Reserve Funds

### Establishment of reserve funds

**171** (1) A council may, by bylaw, establish a reserve fund for a specified purpose and direct that money be placed to the credit of the reserve fund.

(2) If a municipality receives money in respect of any one of the following, the council must establish a reserve fund for the applicable purpose:

- (a) money received from the imposition of a development cost charge, which must be placed to the credit of a reserve fund in accordance with section 935 *[use of development cost charges]* of the *Local Government Act*;
- (b) money received
  - (i) from the sale of park land,
  - (ii) under section 27 (2) (b) *[disposal of park land]*, or
  - (iii) under section 941 (12) *[provision of park land on subdivision]* of the *Local Government Act*,

  which must be placed to the credit of a reserve fund for the purpose of acquiring park lands;

(c) money received under section 41 (1) (d) *[disposal of highway property that provides access to water]*, which must be placed to the credit of a reserve fund in accordance with that section;

(d) money received under section 906 (3) *[parking space requirements]* of the *Local Government Act*, which must be placed to the credit of a reserve fund for the purpose of providing off-street parking spaces;

(e) money received from the sale of other land and the sale of improvements, which must be placed to the credit of a reserve fund for the purpose of paying any debt remaining in relation to the property and of acquiring land, improvements and other assets of a capital nature.

### Use of money in reserve funds

**172** (1) Subject to this section, money in a reserve fund, and interest earned on it, must be used only for the purpose for which the fund was established.

(2) If the amount to the credit of a reserve fund is greater than required for the purpose for which the fund was established, the council may, by bylaw, transfer all or part of the amount to another reserve fund.

(3) If the current municipal revenue is not sufficient for the funds required to pay compensation in respect of property expropriated or injured or to carry out works referred to in section 32 (3) *[entry on land to mitigate damage]*, the council may, by bylaw, use money from a reserve fund to the extent required.

(4) As a restriction on subsection (2), a transfer from a reserve fund established for a capital purpose may only be made to another reserve fund established for a capital purpose.

(5) As a restriction on subsections (2) and (3), a council may not transfer amounts or use money from a fund required under section 171 (2) (a) *[development cost charge reserve fund]* or (b) *[park land acquisition reserve fund]* unless the bylaw is approved by the minister.

## Division 5 – Restrictions on Use of Municipal Funds

### Purposes for which borrowed money may be used

**173** (1) Subject to this section, money borrowed by a municipality under any Act must not be used for a purpose other than that specified in the bylaw or agreement authorizing the borrowing.

(2) A council may, by bylaw adopted with the approval of the electors, use all or part of money borrowed for a specific purpose and not repayable in the current year for any other lawful purpose of the municipality.

(3) If some of the money borrowed for a specified purpose remains unused after payment of the costs related to that purpose, a council may, by bylaw, provide for the use of the unused money for one or more of the following:

(a) to retire debentures issued for the purpose;

(b) to purchase and cancel debentures issued for the purpose;

(c) for expenditures of a nature similar to the purpose in the bylaw authorizing the money to be borrowed;

(d) for a reserve fund for matters in paragraph (a), (b) or (c).

### Liabilities for use of money contrary to Act

**174** (1) A council member who votes for a bylaw or resolution authorizing the expenditure, investment or other use of money contrary to this Act or the *Local Government Act* is personally liable to the municipality for the amount.

(2) As an exception, subsection (1) does not apply if the council member relied on information provided by a municipal officer or employee and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct in relation to the provision of the information.

(3) In addition to any other penalty to which the person may be liable, a council member who is liable to the municipality under subsection (1) is disqualified from holding municipal office for 3 years from the date of the vote.

(4) Money due a municipality under this section may be recovered for the municipality by

(a) the municipality,

(b) an elector or taxpayer of the municipality, or

(c) a person who holds a security under a borrowing made by the municipality.

# PART 7 – MUNICIPAL REVENUE

## Division 1 – General

### General revenue sources

**175** Municipalities have the following revenue sources:

(a) fees under Division 2 *[Fees]*;

(b) taxes under Division 3 *[Property Value Taxes]*;

(c) taxes under Division 4 *[Parcel Taxes]*;

(d) taxes under Division 5 *[Local Service Taxes]*;

(e) fines and penalties referred to in section 253 *[payment of fines and penalties to municipality]*;

(f) taxes under section 353 *[taxation of utility company property]* of the *Local Government Act*;

(g) revenues raised by other means authorized by or under this or another Act;

(h) revenues received by way of agreement, enterprise, gift, grant or otherwise.

**See the accompanying paper for discussion of possible additional revenue sources.**

### Authority for fees and taxes

**176** (1) A municipality may not impose fees or taxes except as expressly authorized by or under this or another Act.

(2) Section 12 (2) *[authority to establish variations]* does not apply in relation to bylaws imposing taxes.

(3) A council may only provide an exemption from property taxes if expressly authorized by this Part or another Act.

(4) For the purposes of assessment, taxation, recovery of taxes and tax sale, parcels combined under the *Assessment Act* to form one parcel are deemed to constitute one parcel.

## Division 2 – Fees

### Municipal fees

**177** (1) A council may, by bylaw, impose a fee payable in respect of

(a) all or part of a service of the municipality,

(b) the use of municipal property, or

(c) the exercise of regulatory authority by the municipality.

(2) Without limiting subsection (1), a bylaw under this section may do one or more of the following:

(a) apply outside the municipality, if the bylaw is in relation to an authority to provide a service outside the municipality;

(b) base the fee on any factor specified in the bylaw, including by establishing different rates or levels of fees in relation to different factors;

(c) establish fees for obtaining copies of documents that are available for public inspection.

(3) As exceptions, a council may not impose a fee under this section

(a) in relation to Part 3 *[Electors and Elections]* or 4 *[Other Voting]* of the *Local Government Act*, or

(b) in relation to any other matter for which this or another Act specifically authorizes the imposition of a fee, including a fee in the nature of a tax.

(4) A municipality must make available to the public, on request, a report respecting how a fee imposed under this section was determined.

### Fees in relation to soil removal and deposit

**178** (1) A council may, by bylaw, do one or both of the following:

(a) impose rates or levels of fees, including fees in the nature of a tax, for a permit required under a municipal bylaw for

(i) the removal of soil from, or

(ii) the deposit of soil or other material on

any land in the municipality or in any area of the municipality;

(b) impose rates or levels of fees, including fees in the nature of a tax, for the activities referred to in paragraph (a).

(2) Fees under subsection (1) may vary according to the quantity of soil removed or the quantity of soil or other material deposited and may be different for different areas of the municipality.

(3) A bylaw under subsection (1) has no effect until it is approved by the minister.

### Fees in relation to fire and security alarm systems

**179** (1) In relation to fire alarm systems and security alarm systems, a council may, by bylaw, impose fees that are to be paid

(a) by the owner or occupier of real property to which services are provided by or on behalf of the municipality, including policing services under section 3 (2) of the *Police Act*, in response to a false alarm of a system, or

(b) by the persons who lease or otherwise provide these systems to the owners or occupiers of real property, if services referred to in paragraph (a) are provided in response to a false alarm of a system.

(2) A fee under subsection (1) may vary in relation to the number of occasions on which services referred to in that subsection are provided.

(3) As an exception, a bylaw under this section does not apply to fire alarm systems that are intended to alert only the occupants of the dwelling unit in which they are installed.

## Division 3 – Property Value Taxes

### Annual property tax bylaw

**180** (1) Each year, after adoption of the financial plan but before May 15, a council must, by bylaw, impose property value taxes for the year by establishing tax rates for

- (a) the municipal revenue proposed to be raised for the year from property value taxes, as provided in the financial plan, and
- (b) the amounts to be collected for the year by means of rates established by the municipality to meet its taxing obligations in relation to another local government or other public body.

(2) Unless otherwise permitted by this or another Act, a property value tax under subsection (1) must be imposed

- (a) on all land and improvements in the municipality, other than land and improvements that are exempt under this or another Act in relation to the tax, and
- (b) on the basis of the assessed value of the land and improvements.

(3) For the purposes of subsection (1) (a), the bylaw may establish for each property class

- (a) a single rate for all revenue to be raised, or
- (b) separate rates for revenue to be raised for different purposes but, in this case, the relationships between the different property class rates must be the same for all purposes.

(4) For the purposes of subsection (1) (b), for each local government or other public body in relation to which the amounts are to be collected,

- (a) the bylaw must establish separate rates for each property class, and
- (b) the relationships between the different property class rates must be the same as the relationships established under subsection (3) unless otherwise required by or under this or another Act.

(5) If the amount of revenue raised in any year for a body under subsection (1) (b) is more or less than the amount that is required to meet the municipality's obligation, the difference must be used to adjust the rate under subsection (1) (b) for the next year.

(6) The minimum amount of tax under subsection (1) in any year on a parcel of real property is $1.

(7) Property value taxes under subsection (1) are deemed to be imposed on January 1 of the year in which the bylaw under that subsection is adopted, unless expressly provided otherwise by the bylaw or by the enactment under which they are imposed.

### Assessment averaging and phasing options

**181** (1) Instead of imposing tax rates on the assessed value of land, an annual property tax bylaw may impose rates by assessment averaging or assessment phasing in accordance with the regulations under subsection (2).

(2) For the purpose of allowing municipalities to moderate the impact of sudden changes in the assessed value of land, the Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing formulas for determining modified assessed values that are to be used to impose property value taxes;
- (b) authorizing municipalities to vary formulas established under paragraph (a);
- (c) exempting, or authorizing the exemption of, particular types of property within a property class, or of property in prescribed circumstances, from the application of a bylaw under this section;
- (d) providing for a process to review and correct errors made in applying a bylaw under this section to any property;
- (e) providing for the application of the values determined under a bylaw under this section to the imposition of taxes for raising money for the purposes of specified enactments;
- (f) establishing restrictions, conditions and requirements relating to the determination of modified assessed values under this section.

### Property tax rates

**182** The Lieutenant Governor in Council may make regulations respecting tax rates that may be established by an annual property tax bylaw, including regulations doing one or more of the following:

- (a) prescribing limits on tax rates;
- (b) prescribing relationships between tax rates;
- (c) prescribing formulas for calculating the limits or relationships referred to in paragraph (a) or (b);
- (d) allowing the inspector under prescribed circumstances to vary, by order, a limit, relationship or formula prescribed under this section.

## Division 4 – Parcel Taxes

**Parcel tax bylaw**

**183** (1) A council may, by bylaw, impose a parcel tax in accordance with this Division to provide all or part of the funding for a service.

(2) A bylaw under subsection (1) must do the following:

(a) state the service for which the tax is imposed;

(b) state the years for which the tax is imposed;

(c) identify the parcel tax roll under this Division that is to be used to impose the tax;

(d) state the basis, as referred to in section 185 (2) *[basis of taxation for parcel taxes]*, on which the tax is to be imposed;

(e) impose the tax in accordance with subsection (3).

(3) A bylaw under subsection (1) must impose the parcel tax as follows:

(a) in the case of a tax to be imposed on the basis provided under section 185 (2) (a) *[single amount per parcel]*, by establishing the amount to be paid as tax;

(b) in the case of a tax to be imposed on the basis provided under section 185 (2) (b) or (c) *[taxable area or taxable frontage]*, by establishing either

(i) the rate of tax to be paid per unit of taxable area or taxable frontage, or

(ii) rates of tax to be paid for different levels of taxable area or taxable frontage.

(4) The municipality must make available to the public, on request, a report respecting how amounts or rates were determined for the purposes of subsection (3).

(5) In each year that a parcel tax is imposed under this Division, it is deemed to be imposed on January 1 of the year, unless expressly provided otherwise by the bylaw under subsection (1).

**Property subject to parcel tax**

**184** (1) Unless otherwise permitted by or under this or another Act, a parcel tax under this Division must be imposed on all parcels within the municipality, other than those that are exempt from the tax.

(2) In the case of a service that is provided to land or improvements, a parcel tax under this Division may be imposed only on parcels that have the opportunity to be provided with the service, whether or not they are in fact being provided with the service.

(3) A bylaw under section 183 *[parcel tax bylaw]* may provide for waiving or reducing the tax if the owner or a previous owner of the parcel has

(a) provided all or part of the service at the owner's expense, or

(b) already paid towards the cost of the service on terms and conditions specified in the bylaw.

### Parcel tax roll for purpose of imposing tax

**185** (1) A council may, by bylaw, direct the preparation of a parcel tax roll for the purposes of imposing a parcel tax.

(2) A bylaw under subsection (1) must establish the basis on which a parcel tax may be imposed using the parcel tax roll, which may be on the basis of one or more of the following:

(a) a single amount for each parcel;

(b) the taxable area of the parcel;

(c) the taxable frontage of the parcel.

(3) If the bylaw provides a basis under subsection (2) (b) or (c), it must establish how the taxable area or taxable frontage of a parcel is to be determined, subject to the following:

(a) the methods for determination must be based on the physical characteristics of the parcel and may be different for parcels having different classes of physical characteristics;

(b) the basis established for parcels having one class of physical characteristics must be fair and equitable as compared with the basis established for parcels having other classes of physical characteristics.

### Content of parcel tax roll

**186** (1) A parcel tax roll must set out the following:

(a) the parcels on which the tax is to be imposed;

(b) the name and address of the owner of each parcel;

(c) unless the tax is imposed on the basis of a single amount for each parcel, the taxable area or the taxable frontage of each parcel, as applicable;

(d) if the name of a holder of a registered charge is included on the assessment roll under section 4 of the *Assessment Act* for a parcel, the name and address of that person.

(2) The collector may correct errors on the parcel tax roll at any time before the roll is authenticated under section 189.

(3) Once it has been prepared by the collector, the parcel tax roll must be available for public inspection.

(4) If requested by an owner, the collector must amend a parcel tax roll that is to be available for public inspection by omitting or obscuring the address of the owner or other information about the owner in order to protect the privacy or security of the owner.

(5) A request under subsection (4) continues to apply to other parcel tax rolls under this Division until the request is rescinded.

### Parcel tax roll review panel

**187** (1) Before a parcel tax is imposed for the first time, a parcel tax roll review panel must consider any complaints respecting the parcel tax roll and must authenticate the roll in accordance with this Division.

(2) For the purposes of this Division, the council must

- (a) appoint at least 3 persons as the members of the parcel tax roll review panel,
- (b) establish the time and place for the sitting of the panel, and
- (c) have advance notice of the time and place published in accordance with section 79 *[public notice]*.

(3) At least 14 days before the day set for the sitting of the parcel tax roll review panel, the collector must mail to the owner of every parcel of land that is to be taxed a notice stating

- (a) the service in relation to which the parcel tax is to be imposed,
- (b) the taxable area or the taxable frontage, if applicable,
- (c) the time and place of the first sitting of the review panel, and
- (d) that the parcel tax roll is available for inspection at the municipal hall during its regular office hours.

### Review panel to hear complaints and make corrections

**188** (1) Subject to subsection (2), a person may make a complaint to the parcel tax roll review panel on one or more of the following grounds:

- (a) there is an error or omission respecting a name or address on the parcel tax roll;
- (b) there is an error or omission respecting the inclusion of a parcel;
- (c) there is an error or omission respecting the taxable area or the taxable frontage of a parcel;
- (d) an exemption has been improperly allowed or disallowed.

(2) A complaint must not be heard by the parcel tax roll review panel unless written notice of the complaint has been given to the municipality at least 48 hours before the time set for the first sitting of the review panel.

(3) The parcel tax roll review panel may direct the correction of the parcel tax roll respecting any matter referred to in subsection (1).

(4) As a limit on subsection (3), a correction that would

- (a) include a parcel on the parcel tax roll that had not been included before, or
- (b) increase the taxable area or taxable frontage of a parcel on the parcel tax roll

must not be directed until 5 days after notice has been mailed to the owner of the parcel.

(5) The notice under subsection (4) must state

(a) the intention of the parcel tax roll review panel, and

(b) the time and place set for the panel to give its direction.

(6) The following sections of the *Assessment Act* apply to a parcel tax roll review panel:

section 32 (3), (4) and (5) *[complaints by local government or assessor]*;
section 33 (3) *[contents of notice of complaint]*;
section 35 (1) (b) and (c) and (2) *[notice of hearing to complainant]*;
section 36 *[daily schedule of review panel]*;
section 37 *[notice of withdrawal of complaint]*;
section 38 (2) (a), (7) and (9) *[review panel procedures]*;
section 40 *[burden of proof]*.

(7) For the purposes of subsection (6), a reference in those sections to a review panel is deemed to be a reference to a parcel tax roll review panel and a reference to an assessor is deemed to be a reference to the collector.

### Authentication of parcel tax roll

**189** (1) The chair of the parcel tax roll review panel must review the parcel tax roll to confirm that the directed corrections have been made and must report this to the review panel.

(2) After receiving the report, the review panel must confirm and authenticate the parcel tax roll by certificate signed by a majority of its members.

(3) Within 10 days after a parcel tax roll is authenticated, the collector must mail notice of the decision made by the parcel tax roll review panel, or of its refusal to adjudicate the complaint made, to

(a) the owner of the property to which the decision relates, and

(b) the complainant, if the complainant is not the owner.

(4) Notice under subsection (3) must include a statement that the decision may be appealed to the Supreme Court in accordance with section 190.

### Appeal to Supreme Court from review panel decision

**190** (1) A decision of the parcel tax roll review panel may be appealed to the Supreme Court by a person entitled to notice under section 189 (3) or by the municipality.

(2) In order for a person entitled to notice to appeal, within 10 days after the notice is mailed or otherwise delivered to the person, the person must serve on the municipality a written notice of intention to appeal that

(a) is signed by the person, or by the person's solicitor or an agent authorized in writing, and

(b) sets out the grounds of appeal.

(3) In order for the municipality to appeal, within 10 days after the date on which the parcel tax roll is authenticated, it must serve a written notice as described in

subsection (2) on the property owner affected by the appeal and, if applicable, on the complainant.

(4) The court must set a day for hearing the appeal, notice of which must be given to the municipality, the property owner and, if applicable, the complainant.

(5) On an appeal under this section,

(a) the collector must produce before the court the parcel tax roll and all records in that officer's possession affecting the matter, and

(b) the court must hear the appeal, including evidence given on oath before it, in a summary manner.

(6) The court may adjourn the hearing of an appeal under this section and defer judgment in its discretion, but so that all appeals may be determined within 30 days from the authentication of the parcel tax roll by the parcel tax roll review panel.

(7) If an appeal is not decided within the time referred to in subsection (6), the decision of the parcel tax roll review panel stands.

(8) A decision of the Supreme Court under this section may be appealed on a question of law to the Court of Appeal with leave of a justice of the Court of Appeal.

### Updating the parcel tax roll

**191** (1) The collector may amend the parcel tax roll in relation to a matter referred to in section 188 (1) *[complaints to review panel]* on receiving a request under subsection (2) or on the collector's own initiative.

(2) A person who owns a parcel included on a parcel tax roll may request that the roll be amended under this section respecting a matter referred to in section 188 (1), but only in relation to the person's own property.

(3) In each year after the first year in which a parcel tax is imposed, the municipality must publish in a newspaper a notice indicating the following:

(a) the parcel tax roll is available for inspection at the municipal hall during its regular office hours;

(b) a person who owns a parcel included on the parcel tax roll may request that the roll be amended respecting a matter referred to in section 188 (1) *[complaints to review panel]*, but only in relation to the person's own property;

(c) the time by which a request must be made in order to be considered for that year.

(4) A request under subsection (2) must be made in writing to the municipality before the time specified in the notice.

(5) Notice of an amendment, or a refusal to make an amendment requested under subsection (2), must be mailed to the owners of parcels in relation to which the amendment was made or the request received, and for the purposes of sending

notices to these owners, section 188 (4) and (5) *[notice of sitting by review panel]* applies.

(6) A person who is an owner referred to in subsection (5) may make a complaint on one or more of the grounds set out in section 188 (1) *[complaints to review panel]*, but only in relation to the person's own property.

(7) A complaint under subsection (6) is made by giving written notice of the complaint to the municipality within 30 days after the date on which the notice under subsection (5) was delivered.

(8) If a municipality receives a complaint in accordance with subsection (7), it must establish a parcel tax roll review panel to deal with the complaint, and for these purposes sections 188 to 190 *[review panel process]* apply.

(9) A parcel tax roll review panel under subsection (8) only has authority to amend the parcel tax roll in relation to parcels in respect of which a complaint under subsection (6) has been made.

(10) If no complaints under subsection (6) are received, the parcel tax roll as it is amended under subsection (1) is deemed to have been authenticated by a parcel tax review panel.

### Validity of parcel tax roll

**192** Subject to amendment under section 190 *[appeal to Supreme Court]* and despite any omission, defect or error in procedure or in a parcel tax roll, or in a notice or the omission to deliver a notice,

- (a) the initial parcel tax roll, as authenticated by the parcel tax roll review panel, is valid and binding on all parties concerned until amended under section 191 *[updating the parcel tax roll]*, and
- (b) any subsequent parcel tax roll prepared under section 191 that is authenticated or deemed to be authenticated by a parcel tax roll review panel under that section is valid and binding on all parties concerned until any further amendments are made under that section.

## Division 5 – Local Service Taxes

### Authority for local area services

**193** (1) A local area service is a municipal service that is to be paid for in whole or in part by a local service tax under this Division.

(2) The only services that may be provided as local area services are

- (a) services that the council considers provide particular benefit to part of the municipality, and
- (b) business improvement area services under section 198 *[business improvement areas]*.

(3) Nothing in this Division restricts a municipality from recovering part of the costs of a local area service by means of any other source of municipal revenue.

**Requirements for establishing a local area service**

194 (1) A municipality must adopt a bylaw to establish a local area service, and may only do this if

- (a) the service and its cost recovery methods have been proposed by petition in accordance with section 195 *[petition for local area service]*,
- (b) the service and its cost recovery methods have been proposed by council initiative in accordance with section 196 *[local area service on council initiative – subject to petition against]*, or
- (c) the bylaw has received assent of the electors in accordance with section 197 *[local area service on council initiative – subject to elector assent]*.

(2) The bylaw establishing a local area service must

- (a) describe the service,
- (b) define the boundaries of the local service area,
- (c) identify the methods of cost recovery for the service, including the form of local service tax and the portion of the costs of the service that are to be recovered by the local service tax, and
- (d) if applicable, identify the portion of the costs of the service that are to be recovered by a general property tax.

**Petition for local area service**

195 (1) The persons who may petition for a local area service are the owners of parcels that would be subject to the local service tax for the service.

(2) Each page of a petition for a local area service must do the following:

- (a) describe the service in general terms;
- (b) define the boundaries of the local service area;
- (c) provide an estimate of the costs of the service;
- (d) if it is proposed that the municipality borrow for the purposes of the service and all or part of the costs of the borrowing are to be recovered by means of the local service tax, indicate
  - (i) the total amount proposed to be borrowed under the bylaw,
  - (ii) the maximum term for which the debentures may be issued,
  - (iii) the portion of those costs that are to be recovered by a local service tax;
- (e) indicate the proposed methods of cost recovery for the service, including the form of local service tax and the portion of the costs of the service that are to be recovered by the local service tax;
- (f) if applicable, indicate the period over which capital costs are to be recovered by the local service tax;

(g) if applicable, indicate what portion of the costs are proposed to be recovered by a general municipal tax;

(h) include any other information that council requires.

(3) In order for a petition for a local area service to be certified as sufficient and valid,

(a) the petition must be signed by owners of at least 50% of the parcels that would be subject to the local service tax, and

(b) the persons signing must be the owners of parcels that in total represent at least 50% of the assessed value of land and improvements that would be subject to the local service tax.

(4) The corporate officer must determine the sufficiency and validity of a petition to a council and must certify this determination.

(5) A determination under subsection (4) is final and conclusive.

(6) The following apply for the purposes of a petition under this section:

(a) if 2 or more persons are owners of a parcel,

(i) they must be considered as one owner only,

(ii) they are not entitled to petition unless a majority of them concurs, and

(iii) unless a petition is signed by a majority of them, their signatures must be disregarded in determining whether the petition is sufficient;

(b) a person who would be liable for a local service tax by reason of being the holder or occupier of land held in the manner referred to in Division 8 *[Tax Liability of Occupiers]* may sign the petition as if the person were the owner;

(c) in relation to persons referred to in paragraph (b), in computing the values of the land and improvements, only the assessed value of the person's interest in them is to be used.

### Local area service on council initiative – subject to petition against

**196** (1) If a council proposes to undertake a local area service on its own initiative in accordance with this section, it must give notice of this intention

(a) in accordance with section 79 *[public notice]*, and

(b) to the owners of parcels that would be subject to the local service tax.

(2) The notice under subsection (1) must include

(a) the information required under section 195 (2) *[information requirements for petition]*,

(b) if the council is proposing that all or part of the costs may be waived or reduced in accordance with section 184 (3) *[property subject to parcel tax]*, the amount that the property owner will be required to pay for this purpose, and

(c) a statement indicating that the council may proceed with establishing the service unless a petition against the service is presented within 30 days after notice has been given in accordance with this section.

(3) For the purposes of subsection (1) (b), the corporate officer must mail the notice to the applicable address as set out in the last authenticated assessment roll.

(4) Council may proceed with the local area service in accordance with the notice unless it receives a sufficient petition against the service within 30 days after the second publication under subsection (1) (a).

(5) Section 195 (3) to (6) *[rules respecting petitions for local service]* applies to a petition under this section.

(6) If a council has been prevented from undertaking a local area service because of a petition under this section, the council must not propose the same service on its own initiative within a period of one year after the presentation of the petition.

(7) As an exception to subsection (6), a council may again propose a local area service on its own initiative within the period referred to in that subsection if the service is varied from or less expensive than that originally proposed to be undertaken.

### Local area service on council initiative – subject to elector assent

**197** (1) If a council proposes to undertake a local area service on its own initiative in accordance with this section, the bylaw establishing the service may only be adopted with the assent of the electors in the local service area.

(2) As an exception, a council may not undertake a business improvement area service under this section.

### Business improvement areas

**198** (1) In this section:

**"business improvement area"** means the local service area for a service under this section;

**"business improvement area service"** means the provision of grants under subsection (2);

**"business promotion scheme"** means

(a) carrying out studies or making reports respecting one or more areas in the municipality where business or commerce is carried on,

(b) improving, beautifying or maintaining streets, sidewalks or municipally owned land, buildings or structures in one or more business improvement areas,

(c) conserving heritage property in one or more business improvement areas, and

(d) encouraging business in one or more business improvement areas.

(2) A council may grant money to a corporation or other organization that has, as one of its aims, functions or purposes, the planning and implementation of a business promotion scheme.

(3) All or part of a grant paid under subsection (2) must be recovered by means of a local service tax.

(4) The authority under subsection (2) is an exception to section 25 (1) *[prohibition against assistance to business]*.

(5) In addition to the requirements under section 194 (2) *[requirements for establishing a local area service]*, the bylaw establishing a business improvement area service

- (a) must identify the organization to which the money will be granted under subsection (2),
- (b) must establish the maximum amount of money to be granted and the maximum term over which it may be granted, and
- (c) may set conditions and limitations on the receipt and expenditure of the money.

(6) Money granted under this section must be expended only

- (a) by the organization to which it is granted,
- (b) in accordance with the conditions and limitations set out in the bylaw, and
- (c) for the business promotion scheme described in the bylaw.

### Local service taxes

**199** (1) In all cases, all or part of the costs of a local area service may be recovered, in accordance with the establishing bylaw for the service, by means of either or both of

- (a) a property value tax under Division 3, and
- (b) a parcel tax under Division 4

that is imposed only within the local service area.

(2) In the case of a business improvement area service, in addition to the taxes referred to in subsection (1), all or part of the costs of the service may be recovered by means of a tax, based on any factor set out in the establishing bylaw, that is imposed only within the business improvement area.

(3) A local service tax under subsection (1) or (2) in relation to a business improvement area

- (a) may only be imposed on land or improvements, or both, that are
  - (i) used during the year to operate a business of a class specified in the bylaw, or
  - (ii) classified as Class 5 *[light industry]* or Class 6 *[business and other]* property class, and
- (b) may have different rates for different classes of business, as those classes are established by the bylaw.

(4) Subject to this section, the other provisions of this Part apply in respect of a local service tax.

(5) Revenue from a local service tax may only be expended for the local area service in relation to which it is imposed.

### Borrowing in relation to a local area service

**200** (1) If all of the costs of borrowing for the purposes of a local area service are to be recovered by a local service tax, the loan authorization bylaw does not require the approval of the electors under section 163 *[elector approval required for some long term borrowing]*, but it may only be adopted if

(a) the borrowing has been proposed by petition in accordance with section 195 *[petition for local area service]*,

(b) the borrowing has been proposed by council initiative in accordance with section 196 *[local area service on council initiative – subject to petition against]*, or

(c) the bylaw has received assent of the electors in accordance with section 197 *[local area service on council initiative – subject to elector assent]*.

(2) If part of the costs of borrowing for the purposes of a local area service are to be recovered by a local service tax,

(a) a separate loan authorization bylaw is required for the borrowing in relation to which costs are to be recovered by the local service tax, with the bylaw adopted in accordance with subsection (1), and

(b) a separate loan authorization bylaw is required for the borrowing in relation to which costs are to be recovered by any other means, with the bylaw adopted in accordance with Part 6 *[Financial Management]*.

### Enlargement or reduction of local service area

**201** (1) This section applies to the amendment of the bylaw establishing a local area service that has the effect of enlarging or reducing the size of the local service area.

(2) The requirements under section 194 (1) *[requirements for establishing a local area service]* apply only in relation to the area to be included or excluded from the local service area and not to the rest of the local service area.

(3) If a local service area has been enlarged or reduced under this section, the liabilities incurred on behalf of the area as it was before enlargement or reduction must be borne by all the owners of parcels of land in the area as enlarged or reduced.

### Merging of local service areas

**202** (1) A council may, by bylaw, merge 2 or more local service areas into one local service area.

(2) A bylaw under subsection (1) may provide that repayment of any debt of one or more of the merged local service areas that is outstanding at the time of merger is to continue to be borne by the applicable former local service area as if it continued to exist.

(3) Section 194 (1) *[requirements for establishing a local area service]* does not apply to the bylaw under subsection (1) of this section if

- (a) there is no outstanding debt of any of the local service areas being merged,
- (b) the outstanding debt of each of those local service areas is kept separate under subsection (2), or
- (c) the bylaw establishing the service currently includes a provision for merger with one or more other local service areas and the merger is in accordance with the provision.

(4) If section 194 (1) applies to a bylaw under this section, the approval of the electors must be obtained separately for each local service area being merged.

## Division 6 – Statutory Exemptions

### General statutory exemptions

**203** (1) Unless otherwise provided in this Act or the *Local Government Act*, the following property is exempt from taxation to the extent indicated:

- (a) land, improvements or both owned by the Provincial government;
- (b) land, improvements or both owned by
  - (i) the municipality, or
  - (ii) the municipality jointly with another municipality or a regional district;
- (c) land, improvements or both exempt from municipal taxation by another Act;
- (d) land, improvements or both owned by a public library under the *Library Act*;
- (e) land, improvements or both of an Indian, in a municipality incorporated under section 12 (1) of the *Local Government Act*, who is an owner under the letters patent, except for taxation under section 180 (1) (a) *[municipal property taxes]*;
- (f) land, improvements or both in a municipality, other than a municipality incorporated under section 12 (1) of the *Local Government Act*, that
  - (i) are held in trust by the Crown for a band of Indians, and
  - (ii) are not leased to or occupied by a person who is not a member of the band;
- (g) the land of a cemetery under the *Cemetery and Funeral Services Act* actually used and occupied for the interment of the dead or designated an

approved interment area by the registrar under that Act, together with the improvements included as part of the cemetery under that Act, other than

- (i) funeral homes within the meaning of that Act,
- (ii) crematoriums within the meaning of that Act, and
- (iii) premises, or that part of premises, used primarily for the sale of cemetery services or funeral services within the meaning of that Act;

(h) a building set apart for public worship, and the land on which the building stands, if title to the land is registered in the name of

- (i) the religious organization using the building,
- (ii) trustees for the use of that organization, or
- (iii) a religious organization granting a lease of the building and land to be used solely for public worship;

(i) a building that was constructed or reconstructed with the assistance of aid granted by the Provincial government after January 1, 1947 but before April 1, 1974 and that is owned and used exclusively without profit by a corporation to provide homes for elderly citizens, together with the land on which the building stands;

(j) a building set apart and used solely as a hospital under the *Hospital Act*, except a private hospital under that Act, together with the land on which the building stands;

(k) land and improvements for future hospital requirements that are

- (i) designated for the purposes of this section by the minister responsible for the *Hospital Act*, and
- (ii) owned by a society or corporation that is not operated for profit and that has as an object the operation of a hospital;

(l) a building owned by an incorporated institution of learning that is regularly giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and wholly in use for the purpose of giving the instruction, together with the land on which the building stands;

(m) fruit trees;

(n) improvements, other than dwellings and the fixtures, machinery and similar things mentioned in paragraph (o), erected on farm land and used exclusively to operate a farm, up to but not exceeding an assessed value of $50 000;

(o) fixtures, machinery and similar things located on farm land and used exclusively to operate the farm that, if erected or placed, in or on land, a building or fixture or structure in or on it, would, as between landlord and tenant, be removable by the tenant;

(p) an improvement designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act*;

(q) sewage treatment plants, manure storage facilities, effluent reservoirs, effluent lagoons, deodorizing equipment, dust and particulate matter eliminators;

(r) a floating dry dock, other than the onshore facilities of the floating dry dock, if the floating dry dock has a lift capacity greater than 20 000 tonnes.

(2) Septic disposal systems are not exempt from taxation under subsection (1) (q).

(3) An exemption under subsection (1) (b) to (p) does not include exemption from a fee, including a fee in the nature of a tax.

(4) An exemption under subsection (1) (b), (d), (g), (h), (i) or (l) extends only to taxation under section 180 (1) (a) *[municipal property taxes]*.

### Grandparented pollution abatement exemptions

**204** (1) In this section:

**"final determination under the *Assessment Act*"** means a determination on the assessment roll for a taxation year, subject to any change that is finally determined under the *Assessment Act* by supplementary assessment roll, by correction of a property assessment review panel, on complaint to a property assessment review panel or on further appeal;

**"pollution abatement provision"** means section 339 (1) (q) of the *Municipal Act*, section 15 (1) (s) of the *Taxation (Rural Area) Act* or section 396 (1) (e.01) of the *Vancouver Charter*, as those provisions read before their repeal and replacement by the *Budget Measures Implementation Act, 1997*.

(2) Land and improvements that were exempted for the 1996 taxation year under a pollution abatement provision are exempt to the extent established by subsection (3), if

(a) the land and improvements were exempted under that provision for the 1996 taxation year on final determination under the *Assessment Act*, and

(b) as applicable,

(i) for an exemption in relation to land only, the land continues to be exclusively or primarily used for the purpose of abating pollution,

(ii) for an exemption in relation to improvements only, the improvements continue to be exclusively or primarily used for the purpose of abating pollution, or

(iii) for an exemption in relation to land and improvements, the land and improvements continue to be exclusively or primarily used for the purpose of abating pollution.

(3) The amount of an exemption under subsection (2) for a taxation year is limited to the portion of the assessed value of land and improvements that is the least of the following:

(a) the portion that the assessment commissioner, in his or her discretion, determines is attributable to the use of pollution abatement for that taxation year, subject to final determination under the *Assessment Act*;

(b) the portion that was exempted for pollution abatement purposes for the immediately preceding taxation year on final determination under the *Assessment Act*;

(c) the portion that was exempted for the 1996 taxation year on final determination under the *Assessment Act*.

### Phased farm property tax exemption

**205** (1) This section applies to real property

(a) that is in a newly incorporated municipality, or in an area newly included in a municipality, and

(b) that was, immediately before the incorporation, exempt from taxation because of section 15 (1) (f) of the *Taxation (Rural Area) Act* but that, after the incorporation, is not exempt from taxation under this Act.

(2) Real property referred to in subsection (1) is exempt from taxation for the first 5 years after incorporation, to the indicated percentage of the exemption that would have applied had the incorporation not taken place, as follows:

| *Year after incorporation* | *% of exemption that would have applied* |
|---|---|
| 1st | 100% |
| 2nd | 80% |
| 3rd | 60% |
| 4th | 40% |
| 5th | 20% |

### Exemptions under regulations

**206** (1) In addition to the provisions of any other Act, the Lieutenant Governor in Council may make regulations prescribing exemptions from property taxes under any Act in respect of one or more of the following:

(a) prescribed industrial or business improvements;

(b) prescribed improvements at prescribed community airports;

(c) prescribed land or improvements at prescribed community ports.

(2) In addition to the authority under section 283 *[variation authority]*, regulations under subsection (1) may be different for different community airports and different community ports.

(3) An exemption under subsection (1) (b) or (c) applies to an airport or port only for a taxation year in which it is operated as a community airport or community port, as applicable.

## Division 7 – Permissive Exemptions

### General authority for permissive exemptions

**207** (1) A council may, by bylaw in accordance with this section, exempt land or improvements, or both, referred to in subsection (2) or (3) from taxation under section 180 (1) (a) *[municipal property taxes]*, to the extent, for the period and subject to the conditions provided in the bylaw.

(2) Tax exemptions may be provided under this section for the following:

- (a) land or improvements owned by a charitable, philanthropic or other not for profit corporation and used for a purpose that is directly related to the purposes of the corporation;
- (b) land or improvements owned by a municipality, regional district or other local authority and used for a purpose of the local authority;
- (c) land or improvements that the council considers would otherwise qualify for exemption under section 203 *[general statutory exemptions]* were it not for a secondary use;
- (d) the interest of a corporation or other organization in land or improvements that are used or occupied by the organization if
  - (i) the land or improvements are owned or held by a public authority or local authority, or by a person who is providing a municipal service under a partnering agreement and is receiving a tax exemption under section 208 *[partnering and other special tax exemption authority]* in relation to the agreement, and
  - (ii) the land or improvements are used by the organization for a purpose in relation to which an exemption under this Division would apply or could be provided if the land or improvements were owned by that organization;
- (e) in relation to property that is exempted under section 203 (1) (h) *[buildings for public worship]*,
  - (i) any area of land surrounding the exempted building, and
  - (ii) any hall that the council considers is necessary to the exempt building and the land on which the hall stands;
- (f) land or improvements used or occupied by a religious organization, as tenant or licensee, for the purpose of public worship or for the purposes of a hall that the council considers is necessary to land or improvements so used or occupied;
- (g) in relation to property that is exempted under section 203 (1) (i) *[seniors' homes]*, (j) *[hospitals]* or (l) *[private schools]*, any area of land surrounding the exempted building;
- (h) land or improvements owned by an athletic or service club or association and used as a public park or recreation ground or for public athletic or recreational purposes;

(i) land or improvements owned by a person or organization and operated as a private hospital licensed under the *Hospital Act* or an institution licensed under the *Community Care Facility Act*;

(j) land or improvements for which a grant has been made, after March 31, 1974, under the *Housing Construction (Elderly Citizens) Act* before its repeal.

(3) The authority under subsection (2) (g) to (j) is not subject to section 25 (1) *[prohibition against assistance to business]*.

(4) A bylaw under this section

(a) must establish the term of the exemption, which may not be longer than 10 years,

(b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 210 *[notice of permissive tax exemptions]*, and

(c) does not apply to taxation in a calendar year unless it is adopted on or before October 31 in the preceding year.

(5) If only a portion of a parcel of land is exempt under this section, the bylaw under this section must include a description of the land satisfactory to the assessment commissioner.

(6) A bylaw under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

### Partnering, heritage, riparian and other special exemption authority

**208** (1) In this section:

**"eligible property"** means property that is eligible under subsection (2);

**"exemption agreement"** means an agreement under subsection (5).

(2) The following property is eligible for a tax exemption under this section:

(a) eligible partnering property, being property that is

(i) owned by a person or public authority providing a municipal service under a partnering agreement, and

(ii) used in relation to the service being provided under the partnering agreement;

(b) eligible heritage property, being property that is

(i) protected heritage property,

(ii) subject to a heritage revitalization agreement under section 966 of the *Local Government Act*,

(iii) subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property, or

(iv) if property referred to in subparagraphs (i) to (iii) is a building or other improvement so affixed to the land as to constitute real property, an area of land surrounding that improvement;

- (c) eligible riparian property, being property that
  - (i) is riparian land,
  - (ii) is subject to a covenant under section 219 of the *Land Title Act* that
    - (A) relates to the protection of the property as riparian property, and
    - (B) has the municipality granting the exemption under this section as a covenantee in whose favour the covenant is made, and
  - (iii) meets any other requirements prescribed by regulation;
- (d) eligible cemetery property, being land held for cemetery purposes;
- (e) eligible golf course property, being land maintained as a golf course.

(3) A council may, by bylaw, exempt eligible property from taxation under section 180 (1) (a) *[municipal property taxes]* to the extent provided in the bylaw and subject to the conditions established by exemption agreement.

(4) The authority under subsection (3) is not subject to section 25 (1) *[prohibition against assistance to business]*.

(5) For the purposes of this section, the council may enter into an agreement with the owner of property that is or is to be exempted under this section, respecting the extent of the exemption and the conditions on which it is made.

(6) Without limiting subsection (5), an exemption agreement may do one or more of the following:

- (a) require the eligible property to be subject to a covenant under section 219 of the *Land Title Act* in favour of the municipality;
- (b) provide that the exemption is subject to specified conditions;
- (c) provide that, if
  - (i) a condition is not met,
  - (ii) a required covenant under section 219 of the *Land Title Act* is discharged, or
  - (iii) any other circumstances specified in the agreement occur,

  the property owner must pay to the municipality an amount determined in accordance with the agreement.

(7) A bylaw under this section

- (a) must establish the term of the exemption,
- (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 210 *[notice of permissive tax exemptions]*,
- (c) may only be adopted by an affirmative vote of at least 2/3 of all council members, and
- (d) does not apply to taxation in a calendar year unless it is adopted on or before October 31 in the preceding year.

(8) An exemption under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

### Tax exemptions for certain industrial enterprises

**209** (1) In this section,

**"eligible property"** means property classified in the Class 4 *[major industry]* or Class 5 *[light industry]* property class;

**"exemption agreement"** means an agreement under subsection (5).

(2) Subject to subsection (3), a council may, by bylaw, exempt eligible property from taxation under section 180 (1) (a) *[municipal property taxes]*, to the extent provided in the bylaw and subject to the conditions established by exemption agreement.

(3) A council may only provide an exemption under this section

- (a) in respect of a business that the council considers would be a new business in British Columbia,
- (b) for an existing business in the municipality that is proposing an expansion by constructing a new improvement or expanding an existing improvement in the municipality, or
- (c) in respect of a business that the council considers is an existing business that requires the assistance of the municipality in order to continue operations.

(4) The authority under subsection (2) is not subject to section 25 (1) *[prohibition against assistance to business]*.

(5) For the purposes of this section, the council may enter into an agreement with the owner of property that is or is to be exempted under this section, respecting the extent of the exemption and the conditions on which it is made.

(6) Without limiting subsection (5), an exemption agreement may do one or more of the following:

- (a) provide that the exemption is subject to specified conditions;
- (b) provide that, if
  - (i) a condition is not met, or
  - (ii) any other circumstances specified in the agreement occur,

the property owner must pay to the municipality an amount determined in accordance with the agreement.

(7) A bylaw under this section

- (a) must specify the term for which the exemption may be provided,
- (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 210 *[notice of permissive tax exemptions]*,
- (c) may only be adopted by an affirmative vote of at least 2/3 of all council members, and
- (d) does not apply to taxation in a calendar year unless it is adopted on or before October 31 in the preceding year.

(8) An exemption under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

### Notice of permissive tax exemptions

**210** (1) A council must give notice of a proposed bylaw under this Division in accordance with section 79 *[public notice]*.

(2) The notice under subsection (1) must

- (a) identify the property that would be subject to the bylaw,
- (b) describe the proposed exemption,
- (c) state the number of years that the exemption may be provided, and
- (d) provide an estimate of the property tax that will be foregone for each of the first 3 years that the bylaw is in effect.

## Division 8 – Tax Liability of Occupiers

### Taxation of Crown land used by others

**211** (1) Subject to this section, land and its improvements are liable to taxation if the land is

- (a) owned in fee simple by the Crown or some person or organization on behalf of the Crown, and
- (b) held or occupied other than by or on behalf of the Crown.

(2) This section does not make the following liable to taxation:

- (a) land or improvements otherwise exempt under section 203 (1) (b) to (m) *[general statutory exemptions]*;
- (b) land and improvements that are exempted under Division 7 *[Permissive Exemptions]*;
- (c) a highway occupied by
  - (i) a gas, electric light, telephone, telegraph, power, pipeline, water, motor bus, electric trolley bus, radio or television broadcasting or closed circuit television company, or
  - (ii) a company that, in addition to any other function, provides a service similar in nature to a service referred to in subparagraph (i).

(3) Except as provided under the *Veterans' Land Act* (Canada) and subsection (4), the taxes imposed on land and improvements referred to in subsection (1)

- (a) are a liability only of the holder or occupier, recoverable in the manner set out in this Act, and
- (b) are not a lien or charge on the land and improvements that are not liable to tax sale.

(4) In the case of land disposed of by the Provincial government for which the Crown grant has not been registered,

(a) the land, together with its improvements, is liable to tax sale,

(b) the taxes imposed are a lien and charge on the land and its improvements, and

(c) the provisions of this Act and the *Local Government Act* for assessment, taxation, recovery of taxes and tax sales apply for the purposes of this subsection.

(5) If a supplementary assessment roll has been prepared under the *Assessment Act* for land held or occupied in the manner referred to in subsection (1),

(a) the holder or occupier is liable to real property tax in the calendar year in which the holding or occupancy began for the portion of the calendar year the land was held or occupied, and

(b) section 224 *[taxation based on supplementary roll]* applies for the purposes of this subsection.

(6) This section also applies to

(a) improvements owned, held or occupied by or leased to, a person other than the Crown, located on land the fee of which is vested in the Crown or in some other person or organization on behalf of the Crown, and

(b) land held in trust for a band of Indians and occupied, other than in an official capacity, by a person who is not an Indian.

### Taxation of municipal land used by others

**212** If the fee simple of land is vested in a municipality, but the land is held or occupied other than by or on behalf of the municipality, the rules for taxation of Crown land used by others, as set out in section 211 (1), (2), (3) and (6) (a), apply to the land and its improvements and make them liable for taxation.

### Taxation of occupier of exempt land

**213** An occupier of land in the municipality assessed under section 27 of the *Assessment Act* is subject to taxation in the same manner as an occupier of land taxed under section 212.

## Division 9 – General Revenue Collection Authority

### Recovery of taxes and fees

**214** (1) Taxes and fees owed to a municipality, together with any applicable interest or penalties, are a debt due to the municipality recoverable in any court of competent jurisdiction.

(2) In addition to recovery under subsection (1), amounts referred to in that subsection may be recovered by any other method authorized under this or another Act and, unless otherwise provided, the use of one method does not prevent seeking recovery by one or more other methods.

### Collection agreements with other taxing authorities

**215** (1) A council may, by bylaw, enter into an agreement with any other authority having taxing powers in respect of land, or land and improvements, located in the municipality respecting the exercise of the powers of the municipality and of the other authority in relation to the collection of taxes, recovery of unpaid taxes and related matters.

(2) An agreement under subsection (1) may provide that a party to the agreement may exercise a power of another party to the agreement in relation to matters referred to in that subsection.

## Division 10 – Property Tax Due Dates and Tax Notices

### Options for tax due dates

**216** Property taxes are due as follows:

(a) if the municipality has not established an alternative scheme, in accordance with the general tax collection scheme under section 217;

(b) if the municipality has established an alternative scheme under section 218, in accordance with the election of the owner under section 219.

### General tax collection scheme

**217** (1) If this section applies, property taxes for a year are due on July 2 of the year.

(2) The Lieutenant Governor in Council may make regulations establishing penalties and interest that must be applied by municipalities in relation to payments made after the tax due date under subsection (1).

### Alternative municipal tax collection scheme

**218** (1) A council may, by bylaw, establish one or more dates on which all or part of the property taxes under this Part are due.

(2) A bylaw under subsection (1) must establish an annual period during which owners may make elections under section 219 *[owner may elect which scheme to use]*.

(3) A bylaw under subsection (1) may do one or more of the following:

(a) establish procedures for determining the amount of taxes due on each of the due dates;

(b) provide for

(i) estimating, before the adoption of the annual property tax bylaw, the amount of taxes payable in the year, and

(ii) making adjustments to payments due after the adoption of that bylaw in order to take into account variations between the estimated and actual taxes payable;

(c) establish discounts to be applied in relation to payments made before a tax due date established by the bylaw;

(d) establish penalties and interest to be applied in relation to payments made after a tax due date established by the bylaw;

(e) set terms, conditions and procedures in relation to payments, which may be different for different classes of owners as established by the bylaw.

(4) As a limitation on subsection (3) (a), there must not be more than 12 months between the first and last due dates for annual taxes for any year.

### Owner may elect which scheme to use

**219** (1) If a municipal tax collection scheme is established, the applicable scheme is determined in accordance with the following:

(a) if an owner has elected in accordance with subsection (2) to pay under the municipal scheme, that scheme applies;

(b) if an owner has elected in accordance with subsection (2) to pay under the general tax collection scheme, that scheme applies;

(c) if paragraph (a) or (b) does not apply and the municipal tax collection scheme

(i) has not established due dates that are before July 2,

(ii) has not established any interest, or has established interest that does not exceed the interest for the general tax collection scheme prescribed under section 217 (2), and

(iii) has not established any penalty, or has established penalties that do not exceed the penalties for the general tax collection scheme prescribed under section 217 (2),

the municipal tax collection scheme applies;

(d) if no other paragraph applies, the general tax collection scheme applies.

(2) An owner may make an election, or change an election, referred to in subsection (1) (a) or (b) by giving written notice of the election to the municipality within the period established under section 218 (2) *[municipal scheme]*.

(3) If the land title registration of a property indicates that there is more than one registered owner of the property, a person giving notice under subsection (2) may only do so with the written consent of the number of those persons who, together with the person giving notice, are a majority of the registered owners.

(4) As a limit on subsection (2), after an election or change has been made under this section, no further change in election may be made for the same year.

(5) Once an election or change has been made under this section, the owner is liable to make payments in accordance with the applicable scheme until the owner has made a subsequent change in election under this section.

### General tax notices

**220** (1) Each year a municipality must mail a tax notice in accordance with this section to each owner of property subject to tax under this Act.

(2) A tax notice must include the following:

(a) a short description of the property;

(b) the taxes imposed under this Act for the current year, separately stated for

(i) property value taxes imposed under section 180 (1) (a) *[municipal property taxes]*,

(ii) each property value tax imposed under section 180 (1) (b) *[property taxes for other bodies]*,

(iii) each property value tax collected by the municipality on behalf of another local government or other public body on the basis of tax rates imposed by the other body, and

(iv) each parcel tax imposed under Division 4 *[Parcel Taxes]*;

(c) other taxes or fees that are payable in relation to the property;

(d) any credit or abatement authorized by this or another Act;

(e) when the penalties under this Division will be added if taxes are not paid;

(f) other information that may be prescribed by regulation.

(3) The tax notice must include or have enclosed with it an application for a grant under the *Home Owner Grant Act*.

(4) A tax notice under this section must also be mailed to each holder of a registered charge in relation to the property whose name is included on the assessment roll.

(5) For the purposes of this section, the tax notice is to be mailed to the owner or other person at the address on the assessment roll.

(6) If a number of parcels are assessed in the name of the same owner,

(a) any number of those parcels may be included in one tax notice, and

(b) if several of the parcels are assessed at the same value, the tax notice is sufficient if it clearly identifies the property assessed and taxed as a block, parts of a block or a series of lots, without the full description for each parcel.

### Persons may request copies of tax notices

**221** (1) The collector must mail a copy of a tax notice under section 220 *[general tax notices]* and any statement under section 231 *[statement of taxes in arrear or delinquent]* to all persons who have requested this during the current year in accordance with subsection (2).

(2) In order to make a request for the purposes of this section, a person must make a written request to the municipality and include in it a description of the property for which the tax notice is requested that is sufficient to allow the property to be identified.

## Division 11 – Adjustments to Taxes

### Interest on overpayment of taxes

**222** (1) If a person is refunded an amount of taxes paid under this Act, the municipality must pay the person interest at the rate prescribed under subsection (2).

(2) The Lieutenant Governor in Council may prescribe a rate of interest for the purposes of this section.

### Adjustments required if assessments are set aside or varied

**223** (1) If an assessment is set aside or varied after the annual property tax bylaw is adopted, the collector must make the necessary adjustments to the taxes imposed on the affected property.

(2) The amount of any tax as amended under this section is the amount of taxes imposed for the current year on the property affected and, despite the terms of a receipt given by the collector, any excess paid must be refunded and any balance unpaid is tax due and payable.

### Taxation based on supplementary roll

**224** (1) If taxes are to be imposed on the basis of a supplementary roll under the *Assessment Act*, 30 days' notice must be given for payment of those taxes and a penalty must not be added in that period.

(2) If an assessment on a supplementary roll is set aside or the assessed value reduced under the *Assessment Act*, the collector must refund to an owner the excess amount of taxes, and any penalty and interest on that excess, paid by the owner, less any taxes in arrear or delinquent taxes the person owes to the municipality.

### Apportionment of property value taxes if land subdivided

**225** (1) If a plan of subdivision is deposited in the land title office after November 30 in any year and before June 1 in the next year, the collector may

(a) apportion the taxes payable in that next year between the parcels created by the subdivision in the same proportions as taxes would have been payable in respect of the parcels had the subdivision occurred on or before November 30 in the first year, and

(b) on making an apportionment under paragraph (a), record the apportionment in the manner that the collector considers necessary.

(2) Taxes apportioned to a parcel under subsection (1) are the taxes payable in respect of the parcel in the year for which they are apportioned.

(3) The assessor for the area in which the land is located must provide the collector with the assessed values necessary to calculate the proportions of taxes referred to in subsection (1).

### Apportionment of parcel taxes if land subdivided

**226** (1) If a parcel of land subject to tax under Division 4 *[Parcel Taxes]* is subdivided, the collector must apportion the taxes payable between the parcels created by the subdivision in the same proportions as taxes would have been payable in respect of the parcels had the subdivision occurred before the assessment roll was authenticated.

(2) Taxes apportioned to a parcel under subsection (1) are the taxes payable in respect of the parcel.

(3) An apportionment or reapportionment of a parcel tax under this section does not

- (a) require authorization or confirmation by bylaw or by a parcel tax roll review panel,
- (b) operate as a new parcel tax assessment, or
- (c) in any way invalidate, reopen or affect the assessment roll other than for the land in respect of which the apportionment or reapportionment has been made.

## Division 12 – Payment of Taxes

### Application of tax payments

**227** (1) Payments for taxes must be credited by the collector against the following in the indicated order:

- (a) delinquent taxes, including interest, from past years;
- (b) taxes in arrear, including interest, from the preceding year;
- (c) a penalty added in the current year;
- (d) taxes imposed under the *School Act* for the current year;
- (e) taxes under Division 5 *[Local Service Taxes]* in the current year;
- (f) any unpaid municipal taxes for the current year.

(2) Acceptance of a payment on account of taxes does not affect the liability of a person for full payment or of the land or improvements to be sold for the amount of taxes unpaid.

### Taxes in arrear

**228** (1) The taxes for the current year on land or improvements, or both, together with any applicable penalties, that are unpaid on December 31 in the year imposed

- (a) are taxes in arrear on that date, and
- (b) bear interest from that date at a rate prescribed by the Lieutenant Governor in Council under section 11 (3) of the *Taxation (Rural Area) Act*.

(2) Taxes

- (a) imposed by a municipality under section 180 (1) (b) *[property taxes for other bodies]*, or

(b) collected by the municipality on behalf of another local government or other public body on the basis of tax rates imposed by the other body

that are unpaid on December 31 in the year imposed, together with any applicable penalties, become municipal taxes in arrear under subsection (1) on that date.

(3) The interest under subsection (1) (b) is part of the taxes in arrear, and the total amount of the taxes in arrear is a charge on the land or improvements, or both, as if the penalties and interest had originally formed part of the taxes imposed.

### Delinquent taxes

**229** (1) Any taxes in arrear remaining unpaid on December 31 in the year following the year in which they became taxes in arrear

(a) are delinquent on that date, and

(b) bear interest from that date at a rate prescribed by the Lieutenant Governor in Council under section 11 (3) of the *Taxation (Rural Area) Act* until paid or recovered.

(2) The added interest under subsection (1) (b) is part of the delinquent taxes and is a charge as in section 228 (3) *[taxes in arrear]*.

### Treatment of taxes on subdivision or cancellation of subdivision

**230** (1) If a parcel of land appears on the assessment roll to have been subdivided, the collector must apportion taxes in arrear and delinquent taxes in the same proportion as the assessment for each new parcel bears to the total assessment.

(2) The assessor for the area in which the land is located must provide the collector with the assessment apportionment required for the purpose of subsection (1).

(3) Subsections (1) and (2) also apply if part of a parcel on which taxes are due has been sold and the transfer has been delivered to the purchaser.

(4) If a plan of subdivision has been cancelled, the amount of any taxes in arrear or delinquent taxes against a parcel in the plan or subdivision cancelled are taxes in arrear or delinquent taxes against the parcel of land as it appears after cancellation.

### Statement of taxes in arrear or delinquent

**231** (1) No later than the date on which the tax notice under section 220 *[general tax notices]* is mailed, the collector must mail a statement of the amount of the taxes in arrear and of delinquent taxes to each assessed owner of

(a) property for which there are taxes in arrear or delinquent taxes, or

(b) property sold by tax sale under the *Local Government Act*, but remaining subject to redemption under section 417 *[redemption by owner]* of that Act.

(2) A statement under subsection (1) must also be mailed to each holder of a registered charge in relation to the property whose name is included on the assessment roll.

(3) If applicable, the statement under subsection (1) must be in the form prescribed by regulation.

**Certificate of taxes outstanding**

232 (1) On demand and without charge, the collector must give the owner of real property whichever of the following is applicable to the property:

(a) a written statement showing the amount of all unpaid taxes;

(b) a certificate that all taxes and fees imposed against the real property identified in the certificate have been fully paid.

(2) The collector must provide, to any person who requests this, a certificate showing

(a) the amount of unpaid taxes charged against specified real property,

(b) whether the real property has been sold for taxes, and

(c) if the property has been sold for taxes, the time if any remaining for redemption and the amount required to redeem it.

(3) An error in a statement or certificate given under this section does not subject the municipality to damages.

## Division 13 – Recovery of Taxes

**Taxes are a special charge on the land**

233 (1) Taxes accrued and to accrue on land and its improvements, and a judgment under section 214 *[recovery of taxes and fees]* for the taxes, are a charge that

(a) is a special charge on the land and improvements,

(b) has priority over any claim, lien, privilege or encumbrance of any person except the Crown, and

(c) does not require registration to preserve it.

(2) If it is necessary or advisable to protect or enforce a charge under subsection (1) by a proceeding, this may be done by order of the court, on application and on notice the court considers proper.

**Liability of assessed owner**

234 (1) A person who, in any year, is an assessed owner of land, improvements or both in a municipality, or of a taxable interest in them, is liable to the municipality for

(a) all taxes imposed by the municipality under any Act or former Act on the land, improvements or both during the year, and

(b) all unpaid taxes imposed in a previous year.

(2) The liability referred to in subsection (1) is a debt owed to the municipality, and a copy of the tax notice under section 220 *[general tax notices]* that refers to the taxes payable by the person, certified as a true copy by the corporate officer, is evidence of that debt.

(3) The liability referred to in subsection (1) must not be enforced by action against a person whose name appears on an assessment roll only as a personal representative or trustee of an estate, except to the extent and value of the assets of the estate that have come into that person's hands.

### Recovery of taxes by the legal remedy of distress

**235** (1) Despite any Act, with the approval of the council, a collector may, directly or by agent, levy the amount of taxes due, with costs, by distress of one or more of the following:

- (a) the output of the taxed property;
- (b) goods and chattels of the person liable to pay the taxes;
- (c) any goods and chattels in British Columbia in the possession of the person liable to pay the taxes;
- (d) any goods and chattels found on the premises of the person liable to pay the taxes;
- (e) any goods and chattels found on the property of or in the possession of another occupant of the premises of the person liable to pay the taxes that would be subject to distress for arrears of rent due to a landlord.

(2) Subject to subsection (3), the costs chargeable on distress under this section are those payable as between landlord and tenant.

(3) A council may, by bylaw, regulate and alter the scale of costs payable in cases of distress under this section.

(4) A collector who makes distress must give notice in accordance with section 79 *[public notice]* of

- (a) the time and place of the sale, and
- (b) the name of the taxpayer whose property is to be sold.

(5) At the time given in the notice under subsection (4), the collector or agent must sell at public auction the seized property or as much as may be necessary.

(6) If there is a surplus from the sale over the amount of the taxes and costs, the surplus must be paid to the person in possession of the property when it was seized, unless claim to it is made by another person on the ground that the property sold belonged to the other person, or that the other person was entitled by lien or other right to the surplus.

(7) If a claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus must be paid to the claimant.

(8) If the claim referred to in subsection (7) is contested, the surplus must be retained by the collector until the rights of the parties have been determined.

(9) A person receiving a surplus under this section must give a receipt for it.

### Power to accept real property in place of taxes

236 (1) A council may, by bylaw, accept, in place of all unpaid taxes, rates, interest and costs against otherwise unencumbered real property in the municipality, an absolute conveyance to the municipality of the whole of the real property from its registered owner.

(2) Delivery of the conveyance must be made to the municipality and, after receipt, the designated municipal officer must promptly apply to the proper land title office for registration of the municipality as owner.

(3) Registration of the municipality as owner of the land or real property is deemed to be in payment of and discharges all taxes, rates, interest and costs assessed and chargeable against the land or real property at the date of the conveyance.

### Tax sales

237 If applicable, a municipality must recover unpaid property taxes, including any interest and penalties owing on those taxes, by tax sale in accordance with Division 8 *[Annual Tax Sale]* of Part 11 *[Tax Collection]* of the *Local Government Act*.

### Notice of delinquent taxes on Crown land

238 If taxes become delinquent on land that the Provincial government has agreed to sell under an agreement to purchase,

(a) the collector must notify the minister responsible for the administration of the *Land Act* within 3 months after taxes with respect to the person holding the land became delinquent, and

(b) that minister must cause a suitable notation to be made on the record of purchase and may take any other steps considered advisable.

### Recovery of taxes on Crown land subject to an agreement for sale

239 (1) This section applies if the Provincial government has agreed to sell land in a municipality on terms of deferred payment and the holder of the agreement for sale

(a) has defaulted in payment for the land, or has abandoned the land with the title remaining in the Provincial government, and

(b) has defaulted in payment of municipal taxes against the land.

(2) The municipal taxes referred to in subsection (1) are a first charge against the land and, following the sale of the land, the Provincial government must pay the municipal taxes out of the proceeds of the sale, subject to the limit that the amount paid must not exceed the amount received by the Provincial government for the sale.

### Recovery of taxes on Crown land held under lease or licence

**240** (1) The collector must not sell land the fee simple of which is vested in the Provincial government and which is held under lease, licence, permit or location.

(2) Within 5 months from the date when taxes on land referred to in subsection (1) become delinquent, the collector must give written notice to the person liable for them, either by serving the notice or by sending it by registered mail, that the lease, licence, permit or location will be cancelled if the person does not pay the delinquent taxes, together with interest and all subsequent taxes, within 6 months from the date when the taxes became delinquent.

(3) The collector must send a copy of the notice under subsection (2) to the minister responsible for the administration of the *Land Act*.

(4) If payment of the delinquent taxes, with interest, and all subsequent taxes is not made within the 6 months,

(a) the collector must forward to the minister referred to in subsection (4) a list of defaulting lessees, licensees, permittees or locators, and

(b) that minister must at once cancel the leases, licences, permits or locations.

(5) Until the minister referred to in subsection (3) notifies the collector of cancellation under subsection (4), the collector must not cancel an amount due.

(6) On cancellation of a lease, licence, permit or location, the minister referred to in subsection (3) must notify the collector, who must then cancel the amount due.

(7) If good reasons are shown to the satisfaction of the minister referred to in subsection (3) that the defaulting person, from poverty, sickness or other cause, has been unable to pay the amount due within the time limit, the minister may extend the time within which payment must be made before cancellation takes effect.

## Division 14 – Recovery of Special Fees

### Special fees may be collected as property taxes

**241** (1) This section applies to the following:

(a) fees imposed, under this Act or the *Local Government Act*, for work done or services provided to land or improvements;

(b) fees imposed under section 179 (1) (a) *[fire and security alarms systems]*;

(c) amounts incurred by the municipality in undertaking work required under Division 6 *[Requirement for Remedial Action]* of Part 8 *[Legal Proceedings and Bylaw Enforcement]*;

(d) amounts that the municipality is entitled to recover for work done or services provided to land or improvements under section 17 *[municipal action at defaulter's expense]* or any other provision of this Act or the *Local Government Act* that authorizes the municipality to recover amounts in the event of default by a person.

(2) An amount referred to in subsection (1)

(a) may be collected in the same manner and with the same remedies as property taxes, and

(b) if it is due and payable by December 31 and unpaid on that date, is deemed to be taxes in arrear.

(3) If an amount referred to in subsection (2) (b) is a fee referred to in section 177 (2) (a) *[municipal fees for services outside the municipality]*,

(a) the collector must promptly, after December 31, forward a statement showing the amount of the fee

(i) to the Surveyor of Taxes in the case of real property that is not in a municipality, or

(ii) to the applicable municipal collector in other cases, and

(b) the Surveyor of Taxes or collector must add the amount of the fee to the taxes payable on the property.

(4) If an amount is added under subsection (3) (b),

(a) the amount is deemed to be a municipal tax or Provincial tax, as applicable, and must be dealt with in the same manner as taxes against the property would be under this Act, the *Local Government Act* or the *Taxation (Rural Area) Act*, and

(b) when it is collected, the collecting municipality or Minister of Finance must pay the amount to the municipality to which it is owed.

(5) If an amount is added under subsection (3) (b) and is not paid at the time the property is sold by tax sale,

(a) if the upset price is obtained at the time of the tax sale, the minister or municipality referred to in subsection (4) must pay out of the proceeds of the sale the amount due under this section to the municipality to which it is owed, or

(b) if the upset price is not obtained and subsequently the property is sold, the proceeds of sale must be applied according to the respective interests in the upset price.

### Special fees that are liens against property

**242** (1) This section applies to amounts that are referred to in section 241 (1) *[special fees that may be collected as property taxes]*.

(2) An amount referred to in subsection (1)

(a) is a charge or lien on the land and its improvements in respect of which the charge is imposed, the work done or services provided,

(b) has priority over any claim, lien, privilege or encumbrance of any person except the Crown, and

(c) does not require registration to preserve it.

(3) An owner of land or real property aggrieved by the creation of a charge or lien under this section may, on 10 days' written notice to the municipality, apply to the Supreme Court for an order that the charge be removed or that the amount for which it was imposed be varied.

(4) On an application under subsection (3), if the court is satisfied that any of the amount for which the charge or lien was created was imposed improperly, it may order that the charge or lien be removed or that the amount be varied, or make another order it considers proper.

# PART 8 – LEGAL PROCEEDINGS AND BYLAW ENFORCEMENT

## Division 1 – Challenges to Municipal Proceedings

### Validity of council proceedings

**243** A bylaw, resolution, contract or other proceeding of a council must not be set aside or declared invalid if the only reason for doing so is that

- (a) a person sitting or voting as a council member was not qualified to be a council member at or before the time of the proceeding,
- (b) a council member renounced claim to office on council,
- (c) an election for council was set aside or declared invalid after the proceeding, or
- (d) an election of a council member was set aside or declared invalid after the proceeding.

### Application to court to set aside bylaw or resolution

**244** (1) On application of an elector of a municipality, or of a person interested in the matter, the Supreme Court may set aside all or part of the bylaw or resolution for illegality.

(2) As an exception, subsection (1) does not apply to a security issuing bylaw providing for the issue of debenture or other evidence of indebtedness to a regional district or to the Municipal Finance Authority of British Columbia.

(3) Notice of an application under this section, stating the grounds of the application, must be served on the municipality as follows:

- (a) if the application is in relation to a security issuing bylaw, the notice must be served at least 5 days before the hearing and not more than 10 days after the adoption of the bylaw;
- (b) if the application is in relation to a bylaw or resolution requiring the assent of the electors or the approval of the electors that the council purported to adopt without assent or approval, the notice may be served more than 30 days after the adoption of the bylaw, but must be served at least 10 days before the hearing;
- (c) in any other case, the notice must be served at least 10 days before the hearing and not more than 30 days after the adoption of the bylaw or resolution.

### Assessment or tax stands unless bylaw set aside

**245** A person assessed or subject to a tax under a bylaw is not entitled to plead a defect in the bylaw as a defence to a claim for payment of that tax except by application to set aside the bylaw.

### Declaratory orders

**246** (1) If an application for a declaratory order is made in relation to a bylaw or resolution on the ground of irregularity in the method of its enactment or in its form, the application must be made within 30 days after the adoption of the bylaw or resolution.

(2) As an exception, the restriction in subsection (1) does not apply to a bylaw or resolution referred to in section 244 (3) (b) *[bylaw or resolution where requirement for assent or approval not met]*.

### Right of action on illegal bylaw or resolution

**247** (1) If

(a) all or part of a bylaw or resolution is illegal, and

(b) anything has been done under the bylaw or resolution that, because of the illegality, gives a person a right of action,

the action may not be brought until

(c) 30 days after all or part of the bylaw or resolution has been set aside, and

(d) 30 days' notice has been given to the municipality.

(2) An action referred to in subsection (1) may be brought against the municipality only, and not against a person acting under the bylaw or resolution.

## Division 2 – Proceedings Against Municipalities

### Application of general provisions

**248** In relation to proceedings against a municipality, a council member or a municipal officer or employee, the defences, limitation periods, limitations on liabilities and immunities provided by Division 2 of Part 7 *[Legal Proceedings]* of the *Local Government Act* apply.

### Indemnification against proceedings

**249** (1) In this section:

**"indemnification"** means the payment of amounts required or incurred

(a) to defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions,

(b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a), or

(c) in relation to an inquiry under Part 2 of the *Inquiry Act*, or to another proceeding, that involves the administration of the municipality or the conduct of municipal business;

**"municipal official"** means

(a) a current or former council member,

(b) a current or former municipal officer or employee, or

(c) a person who is or was a person referred to in section 287 (1) *[immunity for individual municipal public officers]* of the *Local Government Act*, but only in relation to the exercise of powers or the performance of duties or functions for or on behalf of a municipality.

(2) A council may

(a) by bylaw, provide for the indemnification of municipal officials, or

(b) by resolution in a specific case, indemnify a municipal official.

(3) As a limit on subsection (2), a council must not pay a fine that is imposed as a result of a municipal official's conviction for a criminal offence that is not a strict or absolute liability offence.

(4) Sections 85 *[disclosure of conflict]* and 86 *[restrictions on participation]* do not apply to a council member who is subject to a resolution under subsection (2) in relation to that resolution.

(5) Subject to subsection (6), a council may not seek indemnity against a municipal official in respect of any conduct of the person that results in a claim for damages against the municipality.

(6) The restriction under subsection (5) does not apply if the court makes a finding in the action that the person has been guilty of dishonesty, gross negligence or malicious or willful misconduct.

## Division 3 – Bylaw Enforcement

### Bylaw contraventions – offences and penalties

**250** (1) If a bylaw establishes a regulation or requirement to be observed in a municipality, a person who breaches the regulation or requirement commits an offence that is punishable in the same manner as if the bylaw had expressly forbidden persons from doing or refraining from doing the act.

(2) In a prosecution for an offence against a municipal bylaw, the justice or court may impose all or part of the penalty or punishment authorized by the bylaw together with the costs of prosecution.

### Establishment of fines and penalties

**251** (1) A council may make bylaws for the purposes of enforcing the bylaws of the municipality.

(2) A bylaw under subsection (1) may establish one or more of the following penalties to which a person convicted of an offence in a prosecution under the *Offence Act* is liable:

(a) a minimum fine;

(b) a maximum fine of up to $10 000;

(c) in the case of a continuing offence, for each day that the offence continues either or both of
  (i) a minimum fine under paragraph (a), or
  (ii) a maximum fine under paragraph (b);
(d) imprisonment for not more than 6 months.

(3) A bylaw under subsection (1) may establish one or more of the following penalties to which a person convicted of an offence under Division 4 *[Ticketing for Bylaw Offences]* of this Part is liable:
(a) a fine of up to
  (i) the prescribed amount, or
  (ii) with the approval of the chief judge of the Provincial court, a higher amount;
(b) in the case of a continuing offence, for each day that the offence continues, a fine under paragraph (a).

### Recovery of penalty by legal remedy of distress

**252** (1) If a penalty, or part of a penalty, and all costs imposed are not paid promptly, the justice or court may, by order authorize all or part of the penalty and costs to be levied by distress and sale of the offender's goods and chattels.

(2) If there is no distress out of which the penalty and costs or part of the penalty and all of the costs can be levied, the justice or court may commit the offender to imprisonment for the term, or part of the term, specified in the bylaw.

### Payment of fines and penalties to municipality

**253** Fines and penalties imposed and collected under or because of a municipal bylaw must be paid to the municipality.

## Division 4 – Ticketing for Bylaw Offences

### Ticket offences

**254** (1) A council may, by bylaw,
(a) designate a bylaw for the purpose of this section, other than a bylaw in relation to
  (i) firearms, or
  (ii) a matter prescribed by regulation,
(b) designate as a bylaw enforcement officer a person who comes within a class of persons prescribed by regulation, and
(c) authorize the use of any word or expression on a ticket issued under subsection (2) to designate an offence against a bylaw.

(2) If a bylaw is designated under subsection (1), a bylaw enforcement officer may lay an information by means of a ticket for contravention of the bylaw.

(3) Despite section 13 (1) of the *Offence Act*, an information laid by means of a ticket is valid whether or not it is taken under oath.

(4) The use on a ticket of

(a) any word or expression authorized by bylaw under subsection (1) (c) to designate an offence against a bylaw, or

(b) a general description of an offence against a bylaw,

is deemed sufficient for all purposes to describe the offence designated by that word, expression or general description.

### Laying information and serving ticket

**255** (1) When laying an information by means of a ticket, a bylaw enforcement officer must indicate on the ticket the offence charged and must sign the ticket.

(2) The bylaw enforcement officer must serve the ticket on the person alleged to have contravened the bylaw.

(3) Service of a ticket under subsection (2) may be effected by

(a) serving a copy of the ticket on the person alleged to have contravened the bylaw immediately after the alleged contravention, or

(b) causing a copy of the ticket to be served in the same manner as a summons may be served under the *Offence Act*.

(4) Service of a ticket under subsection (2) may be proved by

(a) the oral evidence given under oath of the person who served it, or

(b) the certificate of the person who served the ticket, if the certificate is endorsed on the ticket or a copy of the ticket.

(5) The certificate referred to in subsection (4) is proof of the facts stated in the certificate and of the authority of the person who signed it without further proof of the person's appointment or signature.

### Choice of paying fine or disputing ticket

**256** (1) If a fine set in accordance with section 251 (3) *[fines for ticket offences]* is indicated on a ticket for an offence charged, the person on whom the ticket is served may, within 14 days after the date of service,

(a) pay the fine indicated on the ticket to the municipality in accordance with the prescribed instructions, or

(b) dispute the allegation contained in the ticket by

(i) delivering or having delivered to the address set out in the ticket a written notice of dispute, or

(ii) appearing in person at the location set out in the ticket to give notice of dispute.

(2) A notice of dispute under subsection (1) must contain an address for the person disputing the allegation and sufficient information to identify the ticket and the alleged contravention being disputed.

(3) For the purpose of subsection (1), a notice of dispute that is delivered by mail is deemed to have been delivered on the date it was mailed.

### Effect of paying fine

**257** (1) A person who pays a fine in accordance with section 256 (1) (a) *[choice of paying fine or disputing ticket]* is deemed to have pleaded guilty to the offence with which the person was charged and to have paid the fine imposed.

(2) If a person who is served with a ticket pays the fine as referred to in subsection (1), no conviction need be drawn up or entered unless it is required under the bylaw contravened or by the person convicted or a prosecutor.

### Hearing of dispute

**258** (1) If notice of dispute is given in accordance with section 256 (1) (b) *[choice of paying fine or disputing ticket]*, the council must refer the ticket to the Provincial Court for a hearing.

(2) If a ticket is referred to the Provincial Court under subsection (1), the clerk of the court must send to the person who was served with the ticket, by ordinary mail to the person's address set out in the notice of dispute, a notice of the hearing specifying a time and place for the appearance of the person before a justice.

(3) If a person appears before a justice at the time and place specified in the notice under subsection (2), section 58 of the *Offence Act* does not apply to the person and the justice has jurisdiction to hear the dispute without examining the notice of dispute or the notice of the hearing or inquiring into the service of the ticket on the person.

(4) If a person who is served with a ticket has

(a) appeared before a justice at the time and place specified in the notice under subsection (2), and

(b) pleaded guilty to or been found guilty of the offence with which the person was charged in the ticket,

no conviction need be drawn up or entered unless it is required under the bylaw contravened or by the person convicted or a prosecutor.

### Failure to appear at hearing

**259** (1) A person is deemed to have not disputed a charge if the person fails to appear before a justice to dispute the charge

(a) at the time and place specified in the notice of the hearing referred to in section 258 (2) *[hearing of dispute]*, or

(b) at a new time and place set under section 261 (4) *[time extensions if person not at fault in failing to respond or appear]*.

(2) If a person is deemed under subsection (1) to have not disputed a charge, a justice must examine the ticket and proceed as follows:

(a) if the ticket is complete and regular on its face, the justice must

(i) convict the person in the person's absence and without a hearing, and

(ii) impose the fine set under section 251 (3) for the offence charged;

(b) if the ticket is not complete and regular on its face, the justice must quash the proceeding.

(3) Nothing in subsection (1) or (2) is to be construed as abrogating the right of a person to appeal the conviction under section 102 of the *Offence Act*.

### Failure to respond to ticket

**260** (1) A person served with a ticket under section 255 *[laying information and serving ticket]* is deemed to have not disputed the charge if

(a) the person does not pay the fine or dispute the charge, as provided in section 256 (1) *[choice of paying fine or disputing ticket]*, and

(b) at least 14 days have elapsed since the ticket was served on the person.

(2) If a person is deemed under subsection (1) to have not disputed the charge, a justice, on being satisfied that the conditions set out in that subsection have been met, must examine the ticket and proceed in accordance with section 259 (2) *[procedure if person fails to appear at hearing]*.

(3) The conditions set out in subsection (1) may be proved to the satisfaction of the justice by oral evidence given under oath or by affidavit in the prescribed form.

(4) Nothing in subsection (1) is to be construed as abrogating the right of a person to appeal the conviction under section 102 of the *Offence Act*.

### Time extensions if person not at fault in failing to respond or appear

**261** (1) A person who is served with a ticket may appear before a justice if

(a) the person has, through no fault of that person, not had an opportunity to dispute the charge, and

(b) not more than 30 days have elapsed since the end of the period referred to in section 256 (1) *[choice of paying fine or disputing ticket]*.

(2) If a person appears before a justice under subsection (1), the justice, on being satisfied of the facts by affidavit in the prescribed form, must

(a) strike out the conviction, if any, and

(b) allow the person 14 days after the date the conviction is struck to dispute the charge in accordance with section 256 (1) *[choice of paying fine or disputing ticket]*.

(3) If a person fails to appear before a justice to dispute a charge at the time and place specified in the notice of the hearing referred to in section 258 (2) *[hearing of dispute]*, the person may, within 30 days after the date specified in the notice, appear before a justice for a determination of whether or not the failure to appear was the person's fault.

(4) If a person appears before a justice under subsection (3) and the justice is satisfied by affidavit in the prescribed form that the failure to appear was not the person's fault, the justice must

  (a) strike out the conviction, if any, and

  (b) set a new time and place for the appearance of the person before a justice.

(5) If a conviction is struck out under subsection (2) or (4), the justice must give the person a certificate of the fact in the prescribed form.

### Regulations in relation to ticket offences

**262** The Lieutenant Governor in Council may make regulations as follows:

  (a) prescribing the form and content of the tickets issued under this Division;

  (b) prescribing, by reference to their subject matter, additional categories of bylaws for the purpose of section 254 (1) (a) (ii) *[ticket offences]*;

  (c) prescribing classes of persons for the purpose of section 254 (1) (b) *[ticket offences]*;

  (d) prescribing the form of a certificate of service for the purpose of section 255 (4) *[laying information and serving ticket]*;

  (e) prescribing instructions for paying a fine for the purpose of section 256 (1) (a) *[choice of paying fine or disputing ticket]*;

  (f) prescribing the form of affidavits for the purposes of sections 260 (3) *[failure to respond to ticket]* and 261 (2) and (4) *[time extensions if person not at fault in failing to respond to ticket]*;

  (g) prescribing the form of a certificate under section 261 (5) *[time extensions if person not at fault in failing to respond to ticket]*.

## Division 5 – Enforcement by Civil Proceedings

### Actions by municipality

**263** (1) A municipality may, by a proceeding brought in Supreme Court, enforce, or prevent or restrain the breach of,

  (a) a bylaw or resolution of the council under this Act or any other Act, or

  (b) a provision of this Act or the *Local Government Act*.

(2) A municipality may commence an action relating to any damage to or interference with a highway in the municipality.

(3) A proceeding under subsection (1) or (2) may be brought by the municipality in its own name and it is not necessary that the Provincial government, the Attorney General or an officer of the Provincial government be a plaintiff in the proceeding.

(4) In a proceeding referred to in subsection (1) or (2), the municipality must serve a copy of the originating documents on the Attorney General

  (a) before the end of the time limit for appearance by the defendant, or

(b) within a further time that may be allowed by the court.

(5) The authority under subsection (1) is in addition to any other remedy or penalty provided by or under this Act or the *Local Government Act*.

## Division 6 – Requirement for Remedial Action

### Requirement for remedy of a declared nuisance

**264** (1) A council may take action under this section in respect of the following:

- (a) a building or other structure;
- (b) an erection of any kind;
- (c) a natural or artificial opening in the ground;
- (d) a drain, ditch, water course, pond, surface water or other matter or thing;
- (e) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (d).

(2) A council may

- (a) declare that any matter or thing referred to in subsection (1) is a nuisance if
  - (i) all or part of it contravenes a bylaw, or
  - (ii) council believes that it or any part of it
    - (A) is in or creates an unsafe condition, or
    - (B) is so dilapidated or unclean as to be offensive to the community, and
- (b) require
  - (i) the owner of the matter or thing, or
  - (ii) the owner or occupier of the land on which it is located

to remove all or part of the matter or thing, pull it down, fill it in, cover it over, bring it up to a standard specified by council, alter it or otherwise deal with it in accordance with the directions of council.

(3) Subject to section 269 *[time for compliance]*, a resolution under subsection (2) must specify the date by which the action required by the resolution must be completed.

### Requirement for restoration work

**265** (1) A council may

- (a) declare that restoration work is required if a person has
  - (i) obstructed, filled up or damaged a ditch, drain, creek or watercourse that was constructed or improved under this Act or the *Local Government Act*, or
  - (ii) damaged or destroyed a dike or other drainage or reclamation work connected with it, and
- (b) require the person to undertake the restoration work directed by the council.

(2) Subject to section 269 *[time for compliance]*, a resolution under subsection (1) must specify the date by which the action required by the resolution must be completed.

### Notice to affected persons

**266** (1) Notice of a declaration and requirement under section 264 *[remedy of a declared nuisance]* or 265 *[restoration work]* must

(a) be provided in accordance with subsection (2), and

(b) advise that, after the date specified for compliance, the municipality may take action in accordance with section 17 *[municipal action at defaulter's expense]* at the expense of the person subject to the requirement.

(2) Notice under subsection (1) must be given to the following persons by personal service or by registered mail:

(a) the person subject to the requirement;

(b) the owner of the land where the nuisance exists or the restoration work is to be carried out;

(c) all other persons who are recorded in the land title office as having an interest in that land;

(d) any other person who is an occupier of that land.

### Person affected may request review by council

**267** (1) A person who is given notice under section 266 *[notice to affected persons]* may request that the council review the resolution.

(2) A request under subsection (1) must be made by written notice provided within 14 days of the date of that notice or a longer period specified by council.

(3) If the council receives a notice that complies with subsection (2), it must provide the person with an opportunity to make representations to the council.

(4) After providing the opportunity referred to in subsection (3), the council may confirm, vary or cancel the declaration or requirement.

(5) Notice of a decision under subsection (4) must be provided in accordance with section 266 (2) *[notice to affected persons]*.

### Judicial review by Supreme Court

**268** A person who is subject to a decision under section 267 (4) *[review by council]* may only apply to the Supreme Court for judicial review of the decision within 30 days after the notice under subsection (5) of that section is received, or within a longer time determined by the court.

### Time for compliance

**269** (1) Subject to subsection (2), the date specified for compliance with a requirement under section 264 *[remedy of a declared nuisance]* or 265 *[restoration work]* must not be earlier than 60 days after the notice under section 266 *[notice to affected persons]* is sent.

(2) On application by a municipality, the Supreme Court may authorize the council to specify an earlier date for compliance.

(3) If an application for judicial review referred to in section 268 *[review by court]* is made, the date for compliance is extended until the court decides the application or until the time established by the court, as applicable.

### Consequences of failing to comply with requirement

**270** (1) If a requirement imposed under section 264 *[remedy of a declared nuisance]* or 265 *[restoration work]* has not been satisfied by the date specified for compliance, the municipality may take action in accordance with section 17 *[municipal action at defaulter's expense]*.

(2) In relation to action under this section, Division 14 *[Recovery of Special Fees]* of Part 7 *[Municipal Revenue]* applies to amounts recoverable by the municipality even if the work done was not to land or improvements.

### Authority to recover costs by sale of property

**271** (1) This section applies if a requirement imposed under section 264 (2) *[remedy of a declared nuisance]* is in respect of a matter or thing referred to in subsection (1) (a) *[buildings and other structures]*, (b) *[erections]* or (e) *[other matters or things]* of that section.

(2) In addition to the authority under section 270 *[municipal action]*, if the requirement has not been satisfied by the date specified for compliance, after that date the municipality may sell all or part of the matter or thing.

(3) The municipality must deduct and retain for municipal purposes, from the proceeds of a sale under subsection (2), the actual costs incurred by the municipality in carrying out the requirement, and the remainder of the proceeds must be paid by the municipality to the owner or other person lawfully entitled.

(4) The requirements of section 26 *[notice of proposed property disposition]* do not apply to a sale under this section.

## Division 7 – Other Matters

### Entry warrants

**272** If satisfied by evidence on oath or affirmation that access to property is necessary for the purposes of this Act or the *Local Government Act*, or for the purposes of a municipal responsibility under another Act, a justice may issue a warrant authorizing a person named in the warrant to enter on or into property and conduct an inspection or take other action as authorized by the warrant.

### Note against land title that building regulations contravened

273 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector

(a) observes a condition, with respect to land or a building or other structure, that the inspector considers

(i) results from the contravention of, or is in contravention of, a municipal bylaw, a Provincial building regulation or any other enactment relating to the construction or safety of buildings or other structures, and

(ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or

(b) discovers that

(i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and

(ii) the permit was not obtained or the inspection not satisfactorily completed.

(2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must

(a) give notice to the registered owner of the land to which the recommendation relates, and

(b) after notice under paragraph (a), place the matter before the council.

(3) After providing the building inspector and the owner an opportunity to be heard, the council may confirm the recommendations of the building inspector and pass a resolution directing the corporate officer to file a notice in the land title office stating that

(a) a resolution relating to that land has been made under this section, and

(b) further information about it may be inspected at the municipal hall.

(4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).

(5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.

(6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued in consequence of the deposit of a plan of subdivision or a strata plan.

(7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under

subsection (5), or a cancellation under section 274, after the notice is received by the land title office,

(a) the registrar is not liable nor is the Provincial government liable vicariously, and

(b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

(8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 274 that would have, but for this subsection, constituted a breach of duty to any person.

(9) The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

### Cancellation of note against land title

**274** (1) On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 273 (3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

(2) An owner of land with respect to which a notice has been filed under section 273 (3), may apply to the council for a resolution that the note be cancelled.

(3) After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.

(4) If a resolution has been passed under subsection (3), the corporate officer must file a cancellation notice in the land title office and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

(5) If the council does not pass a resolution under subsection (3), the owner may apply to the Supreme Court and notify the municipality to attend before the court to show cause why the note should not be cancelled.

(6) On an application under subsection (5), after reviewing any evidence that the owner and the municipality may adduce, the court may make an order directing the registrar to cancel the note made under section 273 (3) and, on receiving the order, the registrar of land titles must cancel the note accordingly.

### Orders and awards respecting drainage or reclamation works

**275** (1) If, on account of proceedings taken under this Act or the *Local Government Act* for drainage or reclamation works and local assessments for them,

(a) damages are recovered against the municipality or parties constructing the drainage or reclamation works, or

(b) other relief is given by an order of a court or an award made under this Act or the *Local Government Act*, the money required for the municipality to comply with the order or award must be recovered by taxes imposed on the same basis as the existing assessments for those works.

(2) The council must make the changes in drainage or reclamation works necessary to comply with an order or award.

# PART 9 – GOVERNMENTAL RELATIONS

## Division 1 – Provincial-Municipal Relations

### Required consultations

**276** (1) The minister responsible must consult with representatives of the Union of British Columbia Municipalities before the Provincial government

(a) proposes the amendment or repeal of this Act, the *Local Government Act*, the *Local Government Grants Act* or a regulation under the *Local Government Grants Act*, or the amendment or repeal of another enactment prescribed for the purposes of this section, or

(b) reduces the amount of revenue transfers under the *Local Government Grants Act*.

(2) For the purposes of this section, the minister responsible must

(a) provide the representatives with sufficient information respecting the proposed change, and

(b) allow the representatives sufficient time before the Bill is introduced in the Legislative Assembly, the regulation is made or the estimates are tabled in the Legislative Assembly, as applicable,

for the representatives to consider the proposed change and provide their comments to that minister.

(3) The minister responsible must consider any comments provided by the representatives under this section and, if requested by them, must respond to the those comments.

(4) The minister responsible may require an individual to make an oath or affirmation of confidentiality before the individual may participate in consultations under this section.

### Consultation agreements

**277** (1) The minister responsible may enter into a memorandum of understanding or other arrangement with the Union of British Columbia Municipalities respecting consultations on

(a) Provincial and municipal enactments, policies and programs,

(b) interprovincial, national or international issues or agreements,

(c) any other matter that affects local governments or the Province.

(2) The minister responsible and the Union of British Columbia Municipalities must

(a) if requested by the other party, engage in negotiations respecting an arrangement under this section, and

(b) use all reasonable efforts to reach agreement in negotiating an arrangement under this section.

(3) Without limiting the issues that may be dealt with by an arrangement under this section, such an arrangement may include provisions respecting one or more of the following:

- (a) who is to be consulted;
- (b) when and how the consultation is to take place;
- (c) information that is to be provided for the purposes of consultation;
- (d) how responses are to be provided and dealt with;
- (e) confidentiality.

### Enforcement of obligations

**278** The only persons who may enforce an obligation under section 276 *[required consultations]* or 277 *[consultation agreements]* are the Provincial government, the Union of British Columbia Municipalities and a municipality or regional district that is affected by the matter.

### No forced amalgamations

**279** If a new municipality would include 2 or more existing municipalities, the Lieutenant Governor in Council may not issue letters patent incorporating the new municipality unless

- (a) a vote has been taken in accordance with section 8 of the *Local Government Act* separately in each of the existing municipalities, and
- (b) for each of those municipalities, more than 50% of the votes counted as valid favour the proposed incorporation.

## Division 2 – Provincial Regulations

### Regulations providing exemptions from approval requirements

**280** (1) In this section:

**"approval requirement"** means a provision in or under this or any other Act that has the effect of requiring approval or consent of the Lieutenant Governor in Council, a minister, the inspector or another official before a municipal bylaw or other action is adopted, is taken or is effective;

**"responsible authority"** means

- (a) in relation to approval or consent of the Lieutenant Governor in Council, the Lieutenant Governor in Council,
- (b) in relation to approval or consent of a minister, that minister,
- (c) in relation to approval or consent of the inspector, the minister responsible for this Act, and
- (d) in relation to approval or consent of another official, the minister responsible for the provision establishing the approval requirement.

(2) Despite any other Act, the responsible authority may, by regulation, provide exemptions from an approval requirement.

(3) A regulation under this section may provide that an exemption is or may be made subject to the terms and conditions specified by the minister responsible or another official designated in the regulation.

### Regulations providing additional powers and exceptions

**281** (1) Despite any other Act, the Lieutenant Governor in Council may, by regulation, do one or more of the following in relation to a specified municipality or a described class of municipalities:

(a) provide a power, including a power to regulate, prohibit or require;

(b) provide an exception to or a modification of a requirement or condition established by an enactment;

(c) establish any terms and conditions the Lieutenant Governor in Council considers appropriate regarding a power, modification or exception under this section;

(d) authorize a minister to establish any terms and conditions the minister considers appropriate regarding a power, modification or exception under this section.

(2) As restrictions, a regulation made under this section may not do any of the following:

(a) override an absolute prohibition contained in an enactment;

(b) confer an authority to impose a new tax;

(c) confer an authority to grant a new tax exemption;

(d) eliminate a requirement for obtaining the assent of the electors, unless that requirement is modified by replacing it with a requirement for obtaining the approval of the electors.

### General regulation authority

**282** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) prescribing a body as a public authority or a local authority for the purposes of one or more provisions of this Act;

(b) in relation to section 78 *[application of open meeting rules to other bodies]* or 130 *[application of procedure rules to other bodies]*, or both,

(i) prescribing a body or class of body for the purposes of the section,

(ii) excluding a specified body from the application of the section, or

(iii) modifying any of the provisions of the section in relation to a specified body;

(c) providing exemptions from provisions of Division 6 *[Conflict of Interest]* of Part 4 *[Public Participation and Council Accountability]*;

(d) establishing requirements respecting the form and content of elector response forms for the purposes of section 73 *[alternative approval process]*;

(e) defining words used in Division 6 *[Statutory Exemptions]* of Part 7 *[Municipal Revenue]*;

(f) respecting any other matter for which regulations are contemplated by this Act.

### Variation authority

**283** In addition to any other variation authority that is specifically provided, a regulation under any provision of this Act may be different for different classes of municipalities, persons, property, matters and circumstances and for different municipalities, different parts of municipalities, different matters and different circumstances.

## Division 3 – Dispute Resolution

### Dispute resolution officers

**284** In this Part, **"officer"** means a person designated by the minister to assist in the resolution of disputes for the purposes of this Division.

### Request for assistance in relation to intergovernmental dispute

**285** (1) If a dispute arises between a municipality and

(a) another local government, or

(b) the Provincial government or a Provincial government corporation,

and the parties cannot resolve the dispute, one or more of the parties may apply to an officer for help in resolving the dispute.

(2) If an application is made under subsection (1), the officer

(a) must review the matter,

(b) may attempt to help the parties to resolve the dispute by any process the officer considers appropriate, including by using or referring the matter to mediation or another non-binding resolution process, and

(c) may assist the parties in determining how costs of the process are to be apportioned.

(3) This Division applies to the City of Vancouver.

### Voluntary binding arbitration

**286** If the parties to a dispute agree, an officer must direct the dispute to resolution by binding arbitration under section 288 *[final proposal]* or 289 *[full arbitration]*.

### Mandatory binding arbitration

**287** (1) This section applies to disputes between municipalities respecting an intermunicipal boundary highway, an intermunicipal transecting highway, an intermunicipal bridge or an intermunicipal watercourse.

(2) If a party to the dispute applies to an officer then, subject to subsection (3), the officer must direct the dispute to binding arbitration under section 288 *[final proposal]* or 289 *[full arbitration]*.

(3) Before directing a dispute to binding arbitration under this section, the officer may direct the dispute to mediation or another non-binding resolution process.

(4) The choice of arbitration process under this section is to be determined by agreement between the parties but, if the officer considers that the parties will not be able to reach agreement, the officer may direct which process is to be used.

(5) If more than one municipality is involved in a matter that has been directed to binding arbitration under this section, the arbitrator may direct that the matter is to be settled for all municipalities in the same arbitration.

(6) If a municipality does not adopt the bylaws required under section 291 *[implementation of arbitrator's decision]* in relation to an arbitration under this section, the Lieutenant Governor in Council may, on the recommendation of the minister, implement the terms and conditions of the arbitrator's decision.

(7) An order under subsection (6) is deemed to be a bylaw of the municipality.

### Final proposal arbitration

**288** The following apply to a dispute referred to in section 286 or 287 that is to be resolved by final proposal arbitration:

(a) the dispute is to be resolved by a single arbitrator;

(b) the arbitrator is to be selected, from the list prepared under section 290 (1) *[arbitrator list]*, by agreement among the parties to the dispute or, if the officer considers that these parties will not be able to reach agreement, by the officer;

(c) subject to any applicable regulations, the arbitrator must conduct the proceedings on the basis of a review of written documents and written submissions only, and must determine each disputed issue by selecting one of the final written proposals for resolving that issue submitted by one of the participating parties;

(d) the matter in dispute will be as settled by the arbitrator after incorporation of the final proposals selected by the arbitrator under paragraph (c);

(e) no written reasons are to be provided by the arbitrator.

### Full arbitration

**289** The following apply to a dispute referred to in section 286 or 287 to be resolved by full arbitration:

(a) the dispute is to be resolved by a single arbitrator, who is to be selected in accordance with section 288 (b) *[final proposal arbitration]*;

(b) subject to any applicable regulations, the arbitrator may conduct the proceedings at the times and in the manner he or she determines;

(c) the matter will be as settled by the arbitrator, who is not restricted in his or her decision to submissions made by the parties on the disputed issues;

(d) the arbitrator must give written reasons for the decision.

### General provisions regarding arbitration process

**290** (1) The minister must, after consultation with representatives of the Union of British Columbia Municipalities, prepare a list of persons who may be arbitrators under this Division.

(2) If a dispute between local governments is referred to arbitration under this Division, subject to a direction by the arbitrator or to an agreement between the parties,

(a) the fees and reasonable and necessary expenses of the arbitrator, and

(b) the administrative costs of the process, other than the costs incurred by the parties participating in the process,

are to be shared proportionately between the parties participating in the process on the basis of the converted value of land and improvements in their jurisdiction.

(3) The time limit for bringing any judicial review of a decision of an arbitrator under this Division is the end of the period for agreement under section 294 (1).

### Implementation of arbitrator's decision

**291** (1) During the 60 days after a matter is settled under section 288 *[final proposal arbitration]* or 288 *[full arbitration]*, the parties may agree on a settlement that differs from the decision of the arbitrator.

(2) At the end of the period referred to in subsection (1), unless agreement is reached as referred to in that subsection, the decision of the arbitrator becomes binding on the parties.

(3) If the decision becomes binding under subsection (2), the parties to the arbitration must adopt the bylaws and take the other actions required to implement the terms and conditions of the arbitrator's decision within 90 days after it becomes binding under that subsection.

(4) Despite any other provision of this Act or any other Act, assent of the electors or approval of the electors is not required for a bylaw referred to in subsection (3).

(5) An officer may extend the time period under subsection (1) before or after it has expired.

### Regulations respecting arbitrations

**292** The minister may make regulations respecting arbitrations under this Division and, without limiting this, may make regulations respecting one or more of the following:

(a) matters that an arbitrator must or may consider;

(b) the authority of an arbitrator to resolve the terms and conditions for a dispute;

(c) the authority of an arbitrator to require the cooperation of the parties to the arbitration and their officials and representatives in relation to the arbitration.

# SCHEDULE
# DEFINITIONS AND RULES OF INTERPRETATION

## Definitions

1 In this Act and in a bylaw or resolution under this Act:

**"animal"** means any member of the animal kingdom, other than a human being;

**"annual property tax bylaw"** means a bylaw under section 180 *[annual property tax bylaw]*;

**"approval of the electors"** means approval in accordance with section 71 *[approval of the electors]*;

**"arterial highway"** means a highway that is classified as an arterial highway under the *Highway Act*;

**"assent of the electors"** means assent in accordance with section 72 *[assent of the electors]*;

**"assessed value"** means assessed value determined under the *Assessment Act*;

**"assessment commissioner"** means the assessment commissioner appointed under the *Assessment Authority Act*;

**"assessment roll"** means an assessment roll within the meaning of the *Assessment Act*;

**"assessor"** means an assessor appointed under the *Assessment Authority Act*;

**"assistance"** means assistance within the meaning of section 25 (1) *[prohibition against assistance to business]*;

**"building inspector"** means an individual designated by the council as a building inspector for a municipality;

**"business"** means

(a) carrying on a commercial or industrial activity or undertaking of any kind, and

(b) providing professional, personal or other services for the purpose of gain or profit,

but does not include an activity carried on by the Provincial government, by corporations owned by the Provincial government, by agencies of the Provincial government or by the Greater Vancouver Transportation Authority or any of its subsidiaries.

**"charge"**, in relation to an estate or interest in land, means a charge under the *Land Title Act*;

**"collector"** means the municipal officer assigned responsibility as collector of taxes for the municipality;

**"converted value of land and improvements"** means the net taxable value of land and improvements multiplied by the percentage prescribed for this purpose;

**"corporate officer"** means the municipal officer assigned responsibility under section 133 *[corporate administration]*;

**"council"** means the council of a municipality;

**"council committee"** means

(a) a select committee of council,
(b) a standing committee of council, or
(c) any other body established by council that is composed solely of council members;

**"councillor"** means a member of a council other than the mayor;

**"designated municipal officer"** means

(a) the municipal officer assigned responsibility under section 131 *[officer positions]* in relation to the matter, or
(b) if no assignment referred to in paragraph (a) has been made, the corporate officer;

**"election"** means an election for office on a municipal council;

**"extraordinary traffic"** includes the carriage of goods or persons in vehicles over a highway that, in conjunction with the nature or existing condition of the highway, is so extraordinary in

(a) the quality or quantity of the goods or the number of persons carried,
(b) the mode or time of use of the highway, or
(c) the speed at which the vehicles are driven or operated,

that, in the opinion of the council, it substantially alters or increases the burden imposed on the highway through its proper use by ordinary traffic, and causes damage and expense to the highway beyond what is reasonable or ordinary;

**"farm land"** means land classified as farm land by the assessor;

**"fee"** includes a fee by any name, including a charge;

**"financial officer"** means the municipal officer assigned responsibility under section 134 *[financial administration]*;

**"financial plan"** means the current financial plan for a municipality under section 148 *[financial plan]*;

**"first nation"** means an aboriginal governing body, however organized and established by aboriginal people in their traditional territory in British Columbia;

**"general bylaw"** means a bylaw referred to in section 122 (2) *[municipal codes and other general bylaws]*;

**"general property tax"** means a property value tax or a parcel tax that is imposed in the municipality generally;

**"greater board"** means the corporate body, incorporated by an Act, with responsibility for the provision of water or sewage and drainage services;

**"heritage property"** means property

(a) that is protected heritage property, or

(b) that has, in the opinion of a body or person authorized to exercise a power under this Act or the *Local Government Act* in relation to the property, sufficient heritage value or heritage character to justify its conservation;

**"highway"** includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right of way on private property;

**"impose"**, in relation to a tax, includes levy;

**"improvements"** means improvements as defined in the *Assessment Act*;

**"inspector"** means the Inspector of Municipalities under section 1019 of the *Local Government Act*;

**"intermunicipal boundary highway"** means a highway that forms all or part of the boundary between 2 or more municipalities, including any part of such a highway that deviates to be wholly or partly inside one or more of the municipalities;

**"intermunicipal bridge"** means a bridge that crosses a river, stream or other body of water that forms all or part of the boundary between 2 or more municipalities;

**"intermunicipal transecting highway"** means a highway that transects 2 or more municipalities and serves those municipalities;

**"intermunicipal watercourse"** means a natural stream or watercourse that forms the boundary between, or runs through, more than one municipality;

**"justice"** means a justice as defined in the *Offence Act*;

**"land"**,

(a) for the purposes of assessment and taxation, means land as defined in the *Assessment Act*, and

(b) for other purposes, includes the surface of water, but does not include

(i) improvements,

(ii) mines or minerals belonging to the Crown, or

(iii) mines or minerals for which title in fee simple has been registered in the land title office;

**"land title office"** means the applicable land title office under the *Land Title Act*;

**"loan authorization bylaw"** means a bylaw under section 162 *[long term borrowing by loan authorization bylaw]*;

**"local area service"** means a service referred to in section 193 (1) *[authority for local area services]*;

**"local authority"** means

(a) a municipality, including the City of Vancouver,

(b) a regional district,

(c) the trust council, a local trust committee and the trust fund board within the meaning of the *Islands Trust Act*,

(d) a greater board,

(e) an improvement district, and

(f) any other local body prescribed as a local authority for the purposes of one or more provisions of this Act;

**"local service area"** means the area in which a local service tax is imposed;

**"local service tax"** means a tax imposed under section 199 *[local service taxes]*;

**"minister responsible"**, in relation to a matter, means the minister responsible in relation to the matter;

**"municipality"** means, as applicable,

(a) the corporation into which the residents of an area are incorporated as a municipality under Part 2 *[Incorporation of Municipalities]* of the *Local Government Act* or under any other Act, and

(b) the geographic area of the municipal corporation,

but does not include the City of Vancouver unless otherwise provided;

**"net taxable value"**, in relation to land or improvements or both, means net taxable value of land or improvements or both, as applicable, for regional hospital district purposes;

**"newspaper"** means, in relation to a requirement or authorization for publication in a newspaper, a publication or local periodical that contains items of news and advertising;

**"occupier"**

(a) for the purposes of Division 8 *[Tax Liability of Occupiers]* of Part 7 *[Municipal Revenue]*, means occupier as defined in the *Assessment Act*, and

(b) for other purposes, means a person

(i) who is qualified to maintain an action for trespass,

(ii) who is in possession of Crown land under a homestead entry or preemption record,

(iii) who is in possession of

(A) Crown land, or

(B) land owned by a municipality or regional district

under a lease, licence, agreement for sale, accepted application to purchase, easement or other record from the Crown, municipality or regional district, or

(iv) who simply occupies the land;

**"owner"**, in respect of real property, means

(a) the registered owner of an estate in fee simple,

(b) the tenant for life under a registered life estate,

(c) the registered holder of the last registered agreement for sale,

(d) the holder or occupier of land held in the manner referred to in section 211 *[taxation of Crown land used by others]* or section 212 *[taxation of municipal land used by others]*, and

(e) an Indian who is an owner under the letters patent of a municipality incorporated under section 12 *[incorporation of reserve residents as a village]* of the *Local Government Act*;

**"parcel"** means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway;

**"parcel tax"** means a tax imposed on the basis of a single amount for each parcel, the taxable area of a parcel or the taxable frontage of a parcel;

**"parcel tax roll review panel"** means the parcel tax roll review panel under section 187;

**"partnering agreement"** means an agreement between a municipality and a person or public authority under which the person or public authority agrees to provide a service on behalf of the municipality, other than a service that is part of the general administration of the municipality;

**"population"** means

(a) population determined by the last preceding census taken by Canada, or

(b) if a municipality has been incorporated or its area has been adjusted after that census, population determined by a certificate of the minister;

**"procedure bylaw"** means a bylaw under section 109 *[procedure bylaws]*;

**"property class"** means a property class under the *Assessment Act*;

**"property taxes"** means taxes under Division 3 *[Property Value Taxes]*, 4 *[Parcel Taxes]* or 5 *[Local Service Taxes]* of Part 7 *[Municipal Revenue]*;

**"property value tax"** means a tax imposed on the basis of the value of land or improvements or both;

**"protected heritage property"** means property that is

(a) protected under section 13 (2) of the *Heritage Conservation Act*,

(b) included under section 970.1 (3) (b) *[heritage conservation areas]* of the *Local Government Act* in a schedule to an official community plan, or

(c) designated as protected under bylaws made under section 967 *[heritage designation protection]* of the *Local Government Act*;

**"Provincial building code"** means the Provincial building code under section 692 (1) of the *Local Government Act*;

**"Provincial building regulations"** means the Provincial building code and other regulations under section 692 (1) of the *Local Government Act*;

**"public authority"** means any of the following:

(a) the government of Canada, the government of British Columbia or the government of another province, or an agent of any of them;

(b) a local government body, educational body or health care body, as those terms are defined in the *Freedom of Information and Protection of Privacy Act*;

(c) a first nation;

- (d) a body in another province or country that provides local government services;
- (e) any other body prescribed as a public authority for the purposes of one or more provisions of this Act;

**"public notice posting places"** means the places identified as such in a procedure bylaw;

**"real property"** means land, with or without improvements so affixed to the land as to make them in fact and law a part of it,

**"registered"**, in relation to an interest in land less than the fee simple, means registered as a charge;

**"registered owner"** means the person registered in the land title office as entitled to the fee simple;

**"registrar of land titles"** means the applicable registrar of a land title district under the *Land Title Act*;

**"regulate"** includes authorize, control, inspect, limit, restrict and establish requirements and prohibitions in relation to the persons, properties, activities, things or other matters being regulated;

**"reserve fund"** means a reserve fund under Division 4 of Part 6 *[Financial Management]*;

**"security issuing bylaw"** means a bylaw under section 165 *[security issuing bylaws]*;

**"seize"** includes impound and detain;

**"service"** means an activity, work or facility undertaken or provided by or on behalf of the municipality;

**"soil"** includes sand, gravel, rock and other substances of which land is composed;

**"stream"** means a stream within the meaning of the *Water Act*.

### Special rule for Mountain Time Zone

2 In those municipalities and regional districts in which Mountain Standard Time or Mountain Daylight Time is customarily used, section 25 (7) of the *Interpretation Act [calculation of time]* does not apply and instead a reference to a specified time of the day is a reference to Mountain Standard Time or Mountain Daylight Time, as applicable.

### References to municipal officer

3 Words in an enactment referring to a municipal officer, by name of office or otherwise, also apply to

- (a) the officer's deputy, and
- (b) any person designated by the council to act in the officer's place.